

THE  
CLERGY-MAN's  
*Vade Mecum:*

Or, an Account of the  
Antient and Present  
CHURCH of ENGLAND;

THE  
DUTIES and RIGHTS  
OF THE  
CLERGY;  
AND OF  
Their Privileges and Hardships.

Containing  
Full Directions relating to Ordina-  
tion, Institution, Induction, and most of  
the Difficulties which they commonly  
meet with in the Discharge of their Office.

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Never before Publish'd.

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*Fear the LORD, and honour the Priest, and  
give him his portion. Ecclesiastic. VIII. 31.*

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Knaplock, and Samuel Ballard; in Little Bri-  
tain, and St. Paul's Churchyard. 1706.

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TO THE  
BOOKSELLER.

S I R,

**S**OME Months ago, you put into my Hands a Book call'd The PARSON's Vade Mecum, Printed 1693; desiring that I would review it, and make it fit for another Edition. After having read it, I found it so very defective, and full of great Mistakes, that I scarce found a Paragraph in it, but what, for some Reason or other, I could not approve of; and therefore instead of

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## To the Bookseller.

that Book corrected, I send you one of my own composing: And since the Book is New, I am willing the Title should be so too, tho' not so different from the Old one, as the Book it self is. I call it, The Clergy-Man's Vade Mecum. PARSON, was once a Name of Honour; but the proper Owners are not so fond of it, since Men of other Professions have usurp'd it, and a very great part of the Revenue that belong'd to it: And the Book was not written for the sake of those Men, but of such who are, or intend to be of the Clergy.

Aug. 18.

1705.

S I R,

Your Servant.



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TO THE  
CLERGY.

Reverend *SIRS*,

**T**HIS following Collection was chiefly intended for the Information of Young Students in Divinity, that they might not be too much interrupted in their Labour about Things of greater Consequence, by Enquiry into the *Secular State of the CHURCH*; and that even those who are of greater Maturity of Age and Knowledge, might have as 'twere an *Index or Remembrancer* in those Matters, which no Clergy-Man, I suppose, makes the chief Subject of his Studies.

The Observations with which I here present you, concerning the *External Constitution of the CHURCH*,

A 3 are.

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are chiefly taken from *Bede*, *Aetion*, *Lyndwood*; and of the Moderns, especially Bishop *Stillingsfleet*, tho', as Occasion serves, I have quoted many others: Nor have I satisfi'd my self with the bare Office of a Compiler, but when I thought fit, have offer'd my own Judgment too. When I meet with any Point not agreed by Great and Honest Men, or in itself Uncertain, I have left it as I found it: But where I saw that they who doubted, had no Reason for it, but their Mistake or Prejudice against the CHURCH or CLERGY, there I have not stuck to give my own Opinion, and my Reasons for it.

But the greatest part of this little Book consists of Directions in Law, relating to Church-Affairs. I wish there had not been Occasion for me to be so large in these Matters: But one of the greatest Temporal Difficulties, that belong to the Profession, is, that you are under such a Multitude, and Variety of Laws, and Rules; and those of a different Sort, Ecclesiastical and Civil, which do often interfere, and clash with one another; in so much, that the most Learned Lawyers in many

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ny cases, are not agreed, as to the Rights of Church-Men; and you will find, by several Instances in the following Papers, that what has sometimes been pronounced to be Law, has at other times been deny'd to be so.

Your Office and Tenure is limited and restrained by so many Conditions, and Qualifications, that a Gentleman may more easily settle himself in a Post of the greatest Honour and Profit in the State, than a Clergy-Man can get a Legal Title to a Vicarage or two, of 30 *l. per Annum*, in the Church.

And when you are, according to all the Punctilio's of the Law and Canon, possess'd of a Maintenance, yet you daily find Occasion to exercise your Patience, in submitting to the Impositions of others; or to shew your Prudence and Courage, in defending your own, and the Church's Rights. For I think it may be justly said, that no Order of Men in this, or any other Nation, are under so Fatal Necessity of frequently disputing their Rights, or being abused, as you are; especially Vicars, and Rectors of Parochial Churches.



## P R E F A C E.

I am sensible, that too many, without Cause have Charged the Clergy in general with such Crimes, which as they are Odious in all, so especially in those of your Profession, I mean Litigiousness and Rigour in demanding their Dues: Nor is it the Clergy of this Age, but those of the Ages past, that have lain under this Imputation, which plainly demonstrates the Falsity of it: For there are not many Benefices, which are not considerably lessened, by the want of Care and Exactness in those who have formerly enjoy'd them; and there may, upon Occasion, be great Numbers of Instances produc'd, of Livings which in former Ages had all Tythes paid in Kind; and which, if they were now to be paid, would be worth several Hundreds by the Year; which since that, by reason of Compositions, made between the Incumbents and Parishioners, and in Tract of Time turn'd into Unalterable Customs and Prescriptions, are reduc'd to so small a Value, that they will scarce afford Maintenance to a Single Man. For, granting that in some Parishes there were from the Beginning, some *Modus* agreed to be paid.

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paid in Lieu of Tythe, yet it is certain and demonstrable, that in very many, not to say most, Parishes, these Prescriptions and Customs grew from Voluntary Agreements; and yet in these very Parishes, if the Incumbent be strict in demanding his *Modus*, tho' perhaps it is but a Groat or Two Pence, where Two or Three Shillings were originally his Due, both he and his Order shall be exclaim'd against, for Extortion and Oppression: When yet, if the former Incumbents were such extreme Exactors of their Rights, as some would have them thought, these Customs and Prescriptions could never have prevailed. And if the present Incumbent sink his Two Pence or Four Pence into half that Sum, and bring his Noble to Nine Pence, yet if that be strictly insisted upon by Himself or Successors, they shall be thought Covetous and Griping; of which I know several Instances. And yet, in too many Places, the Poverty of the Benefice, if there were no other Cause for it, would even compel the Poor Incumbent, to insist upon his Rights, to keep Himself and his Family from Starving.

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But farther, the Nobleman, or Gentleman often receives Thousands by the Year, from fewer Hands, than the Vicar his Three or Four Score. I know some Places, where a less Sum than this is paid to the Vicar, by near Two Hundred several Persons. Among so many, 'twere strange, if there were not some Tronblesome and Injurious: And if there be one such in a Parish, the Vicar must have to do with him. He cannot chuse his Dealers, as others do, but must accept them for his Pay-Masters, whom the Landlord takes for his Tenants: And there is many a one, who is aw'd into Honesty by the Greatness, and Riches of a Landlord, who yet knows himself to be more than a Match at Law for his Poor Vicar, and uses him accordingly.

And your Case is the more hard, because your Education is such, as that, generally speaking, you know nothing less than the Law; but employ your Lives in more Generous, and Sublime Speculations: And therefore no wonder, if sometimes you judge too favourably, and at other times too hardly, in your own Case. 'Tis the  
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## P R E F A C E.

Design of these Papers, to give such Directions in these Matters, as may prevent your making any false Step, in disputing your Rights. The Collections, in Relation to the Law, are from a few Books of the best Reputation on this Subject; *viz.* Bishop *Stillingfleet*, a Person of the most Universal Knowledge that this last Age has produced; Dr. *Godolphin's*, who made this the Study of his Life, and whose \* Book is well esteem'd of by the Common Lawyers; and Dr. *Watson's Compleat Incumbent*; which, as it is the last Book of this kind, so it contains the greatest Variety of Cases in most Points, that can concern a Clergy-Man. When I speak positively of any Matter of Moment, I vouch my Author; and in Law-Matters, seldom any but these Three before-mention'd. For I thought it equally unreasonable to Assert Things which depend wholly on Authority, without mentioning the Books from which I had them; and to send a Clergy-Man to Two or Three Hundred Law-Books, to prove the Truth of what I say. My Reader is not to expect Variety of Cases

\* *Abridgement of the Ecclesiastical Laws.*

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Cases represented at large, as in those larger Volumes: 'Tis sufficient, if he have all, or most of those Conclusions and Judgments in Law briefly represented to him, which it chiefly concerns him to know. I have endeavour'd, as far as was possible, to lay aside all Terms of Law, and to explain most of those which I am forc'd to use. For 'twas not my Intention to make my Reader a Lawyer, but to render him more capable of Acquitting himself as a Clergy-Man.

There is nothing has more convinced me of the Necessity of some Books of this kind, than a late Pamphlet call'd *The Parson's Jewel*; wherein the Author [ Mr. Morgan, who Stiles himself, Vicar de Jure, of Llhan-tri-sanct, in Comitat' Glamorgan, ] pretends to go no farther, than to direct a Clergy-Man how he may Qualify, and Settle himself in a Single Benefice; and yet is guilty of so many Mistakes, in imperiously telling his Reader, that he *must* do many Things without giving any Reason, but his own Word for it: And on the other side, forgets other Things of greater Consequence: That if any Young Clergy-Man, believing  
this



## P-R-E-F-A-C-E.

this Confident Asserter, and taking him for their Guide, should follow his Directions, they would lay an Unnecessary-Load upon their own Backs; when the Law has already laid more than enough; and yet at last find, that his Instructions are short and defective.

He advises his Clergy-Men, " To have a Public Notary along with him to the Bishop, to Attest his Institution; and both a Notary Publick and an Attorney to be present at his Induction, &c. I suppose, because the Charge of Institution and Induction, are not great enough already. 'Tis certain, there is no other Reason for it. The Law will take the Attestation of any Honest, Understanding Man, as well as of an Attorney, or Notary.

He supposes, the Witness must Swear, That the Clergy-Man Reads every Syllable of the Liturgy and Articles, &c. † Who told him so? If this were Truth, the Witnesses, who were in such a Case to make Oath for a *Welsh-Man*, or Foreiner, would be hard put to it, if the Liturgy be to be read in *English*. He

† And did not mispronounce one Word. p. 6.



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He tells us, the Witnesses *must Understand Latin*, *because otherwise they cannot Swear, that you Read the Latin Certificate.* p. 6. By what Law, or Canon is the Clerk bound to Read his *Latin Certificate*? 'Tis certain, by none at all; except it be one of Mr. Morgan's making. He indeed, *that had been Ordained by some other Form, than that of the Church of ENGLAND*, was Bound by 13 *Elizab.* not only to Read the Articles, but a Certificate from the Ordinary, of his having Subscribed them; but that was only for such Ministers, and for that Time: And 'tis now sufficient to Subscribe them before the Bishop; and Read them, and give Assent and Consent before the Congregation; the having a Certificate of it is not Prescribed by the Act, much less the Reading of it.

But he tells you, the Witnesses *must Understand Greek too*; *How else can they Swear, That you Read the two Greek Words?* Artic. 9. p. 6. I Answer, by having them writ in Vulgar Characters in the Margin, thus, *Frónema Sarcós.* The Law is so far from Obliging the Witnesses to Understand Greek, that the Clerk himself is not Bound to Know  
so

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so much as the *Greek Alphabet*. The more is the Pity.

He advises the Inducted Clerk, pag. 4. *To keep the Key of the Church, if he expects any Contest*. As if, when the Title to a Benefice were disputed; the Law would give it to him who had the strongest Arm, or the greatest Sleight in holding fast a Key. No, assure your self, the Church may be Su'd from you, tho' you have the Key never so close in your Pocket.

'Twould be lost Time, to mention all the little Niceties about Induction, on which he lays so great a Stress; his Enjoining his Clerk, to give Assent and Consent to the Liturgy Three several Times; and to *Hold up the Book of Common Prayer*, every Time he does it: And moreover, to be at the Expence or Trouble, of giving Copies of his Certificates to every Witness; all which Particulars, seem merely invented to stuff out a thin Pamphlet.

But above all, he charges his Clergy-Man over and again, *To Receive the Sacrament, and take Certificate of it; against the next Quarter Sessions*; in order to Take the Test: And he would make

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make the Clergy-Man believe, that except this be done, *He hazards all, Pag. 3.* He ought to have given some Reason for it, but that is not his Way; nor indeed is there any Reason to be given for what he says on this Head; but of this, and all other Matters he treats of, see *Chap. 9.*

And yet after all, he forgets to remind his Clerk of Taking the *Abjuration Oath*; as if the Act of Parliament, by which this is enjoin'd, were not yet receiv'd in *Wales.*

There is one Advertisement, which I doubt not, but that all will agree to be very pertinent, *That when your Instruments are ready, you are to Pay for them.* But tho' this be much to the Purpose, yet there is less Fear that this should be forgot, than any thing else; because there will be so many about the Clerk at his Institution in the Ecclesiastical Court, ready to refresh his Memory, if he should be willing to forget this Particular. I should rather caution my Reader, that he don't over-do, and Pay too much; but remind himself and the Officers, of the Clauses in the Act against *Simony*; which see *Chap. 11. Art. 5.*

I wish

## P R E F A C E.

I wish it had been in my Power, to present my Reader with the Tables of the Honest Fees for Institution, &c: but this at present is not within my reach; and therefore I can only advise him, when he is got into such Dangerous Company, *to look to his Pockets.*

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THE  
CLERGY-MAN'S  
*Vade-Mecum.*

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CHAP. I.

*Of the Church of England, its Rise,  
Corruption, and Reformation.*

A Vulgar Tradition has prevail'd, That Christianity was first planted here by *Joseph of Arimathea*: but this is a Story that has no ancient or credible Author to attest it, and seems to have been invented by the Monks of *Glastonbury*, to raise the Reputation of their Monastery: For the Tale goes, that *Joseph, and his Companions* had that place given them for their abode, where they built a Church, which was consecrated by *Christ Jesus*, and by him dedicated to his Mother.

But 'tis on all hands allowed, that Christianity was received here, during the Lives  
B of



## 2 *The Clergy-Man's Vade-mecum.*

of some of the Apostles ; and that at furthest within 61, or 62 years after the Birth of Christ ; as likewise, that either *S. Peter*, or *Paul* did first preach this Religion to the *Britans*. Bishop *Stillingsfleet* gives it clearly for the latter, the Apostle of the Gentiles, who is said by *St. Clement*, in his first *Ep. ad Cor. c. 5.* to have preached to the utmost bounds of the *West*. See *Still. Or. Br. p. 38, 39.*

It is reported by *Bede*, who wrote in the beginning of the 8th Century, that *Lucius*, a *British* King, was converted to Christianity *Ann. Dom. 156.* and Archbishop *Usher de Primord.* mentions two Coins with the Effigies of a King, and a Cross, and the Letters *LUC*, so far as could be discern'd.

About the year 407: Christianity began to decline apace in this Country, by reason of the Heresie of *Pelagius* (a *Britain* Born, but who spent most of his Life in *Italy*, *Africa*, and the *East*) which, as it spread its Venom far and near, so particularly amongst his Countrymen: by this means the *British* Christians were divided amongst themselves ; and at the same time they were invaded by the *Picts* and *Scots*, who inhabited the Northern parts of this Isle. *Honorius* the Roman Emperor had just before recall'd his Legions, which had formerly kept the *Britains* in subjection to the Empire, but protected them against all other People; the *Britains* were not able to defend themselves, nor could the Emperor send them any Effectual Succours, and those he did send were soon com-  
manded

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manded home again : for he had enough for them to do there, to put a stop to the Incursions of the *Goths* and *Vandals*.

The *Britains* being reduced to these straits, are forced to accept the help of the *English Saxons*, a Heathen but Warlike People, who soon subdu'd the *Picts* and *Scots*, but then made a League with them against the *Britains* ; and so made themselves Masters of the Country, and drove the *Britains* into *Wales* and *Cornwall* ; to which Countries consequently *Christianity* was then confin'd, while Heathenism and Idolatry spread it self over the rest of the Kingdom.

*A. D.* 596. and 150 years after the *English Saxons* first came into this Country, *Pope Gregory the Great* sent *Austin*, the Head of a Roman Monastery, with forty Companions to instruct this Nation in the Christian Religion. The main Body of the People were, by them and others, converted in about seventy years time, the *Isle of Wight* being the last place that was reduced. *Bed. Hist. L. 4. c. 16.*

For near 950 years we remained in Communion, or rather Subjection to the Church of *Rome*. *Austin* began to erect this Spiritual Tyranny, and Archbishop *Becket*, by dying a Martyr in the *Pope's* Cause, *A. D.* 1170, gave the finishing Stroke.

It had been much better if the *English* had received Christianity from the *Britains*, if it had not been below Conquerors to be taught by those whom they had subdu'd. For they

#### 4 *The Clergy-man's Vade-mecum.*

would have delivered this Religion to us without making us Slaves to the *Pope*, whose Creature *Austin* was ; and the *British* Bishops were aware of this, and therefore opposed him, and adher'd to their old Customs of keeping *Easter*, and Baptizing in a manner somewhat different from that of *Rome*, and they continued their former Practice in the year 731, when *Bede* finished his History ; but in a short time after the *Welch* as well as *English* became Entirely *Romanists*.

But by degrees we became sensible of our Servitude, and several hundred years before the Reformation, several Laws were made to restrain the *Pope's* Power here in *England* : and at last, viz. 1535, *Henry VIII*, a Prince of great Courage and Resolution, wholly renounced the *Pope's* Supremacy, as several *German* Princes had done before.

There were many other Errors which we had receiv'd from the Church of *Rome*, which were for the most part retained, and enforced with severe Penalties, during the Reign of *Henry VIII*. But the same year that he renounced the *Pope's* Supremacy, the whole Bible was published in the *English* Tongue, as the Testament had been before in the year 1527 : and this had so good Effect, that by the year 1548, the second of *Edward VI*, the Generality of all Ranks of Men in *England* were convinced of the Errors of the Church of *Rome*, insomuch that an Act of Parliament pass'd for the *English* Service and for abolishing the *Roman* Worship. There

## *The Clergy-Man's Vade-mecum.*

was one thing which very much contributed to the Speediness of our Reformation here in *England*, which was, that the People began to be very sensible of the Value of Money: For many of the *Romish* Errors were very chargeable and expensive.

Queen *Mary* indeed used all possible means to nip the Reformation in the bud; but her time was short, and the Reign of her Successor Queen *Elizabeth* very long, in which the Reformation took such deep Root in *English* Hearts, that nothing (under God) will ever be able to subvert it, except our own Divisions.

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## 6 *The Clergy-Man's Vade-mecum.*

### CHAP. II:

#### *Of the Doctrine of the Church of England.*

**S**OME are of Opinion, that there were *British* Bishops at the Council of Nice; but 'tis sufficient that we are assured, from *St. Athanasius, Chrysostom, Jerom, &c.* that this Church received the Doctrine of that Council. See *Still. Or. Br.* p. 173.

There is no reason to doubt but that the *British* Bishops, who were at the Council of *Ariminum*, were Orthodox when they came thither, as the great Majority of that Council declar'd themselves to be, while they were left to themselves; and what they did afterwards, was extorted from them by the politic and oppressive Arts of the Emperor *Constantius*, and his Præfect *Taurus*.

The *Pelagian* Heresie, as was before hinted, had spread it self among the *British* Christians; but they were re-settled in the true Faith by *Lupus* and *Germanus*, two French Bishops: and when that Heresie began to get ground again, it was a second time quelled by the said *Germanus*, and one *Severus* Bishop of *Triers*. *Bed. L.* 1. c. 17, and 21.

And even in the most degenerate times of Christianity, the *English* Church was never corrupted to such a degree as some others; of which



which I will give two Instances, viz. that in Scotland it was carried by Vote, in a Provincial Synod, that *the Pater Noster might be said to the Saints.* Archbishop Spotswoods Hist. p. 92. &c. and that in Germany, Priests were openly licensed to keep Concubines, nay at last they were obliged to pay an annual Tax to the Official for such a License, whether they made use of it or not: of this the German Princes openly complain, in the Diet of Noremburg 1523, and this is mentioned in two of the *Centum Gravamina*, Grav. LXXV, and XCI. which may be seen in the *Fascicul. Rer. Exp.* and which, we are assured by the Writer of the History of the Council of Trent, L. I. were actually sent to the Pope: but it does not appear, that ever such lewd Opinions or Practices prevail'd in England.

The Doctrine of the present Church of England is in all respects Catholick and Orthodox. The *Nicene* or *Constantinopolitan Creed* is inserted in the most solemn Office of our Liturgy, and what has been adjudged *Heretic* by the four first General Councils, is allow'd to be so, even by our Statute Law. 1. El. 1.

Besides the *Creeds*, our Clergy subscribe the 39 Articles of Religion drawn up in Convocation A. D. 1562. The greatest part of which are either Affirmations of some Ancient Truths, or Renunciations of the Errors of some old Heresies, or of the *Papists*, or some modern *Sects*.

Some would have it thought, that the seven-teenth Article asserts the Doctrine of *absolute*



## 8 *The Clergy-Man's Vade-mecum.*

*Predestination*, which was condemned in the third Council of *Mentz*, A. D. 848. but these Men are certainly mistaken: for that Article asserts *Predestination* in general terms only, which all allow. The Question is whether God pass'd these Decrees *absolutely* and *unconditionally*? in this the Article is silent.

But it will appear unreasonable to understand this Article of *absolute Predestination*, if it be consider'd, that in the very foregoing Article it is expressly declared that [*we may fall from Grace given* ;] whereas they who are for *the absolute Decrees*, do universally hold [*that a man cannot fall from Grace* :] and indeed the *Puritans*, in the beginning of the Reign of K. *James* the first, were sensible that this Doctrine of Defectibility of Grace was inconsistent with their Opinion of *absolute Predestination*, and therefore desir'd that these words might be added at the end of the aforesaid Clause of the sixteenth Article, *viz.* [*tho' not finally*] but the King and Bishops would not hearken to it. See *Conference at Hampton-Court*.

Further, our Church positively affirms, that [*God the Son redeemed all Mankind*] which can never be reconciled to the Doctrine of *unconditional Election, and Reprobation*.

C H A P. III.

*Of the Worship of the Church of England.*

**A**S there is no room to doubt, but that every Church, as it grew to a Settlement, had stated Forms for Celebrating the Sacraments, and other publick Offices of Religion, so the Antient *Britains* had the same with the *Gallic Church*. See *Comb. Hist. Lit. Part. 2. 162. Still. Or. Br. 216.*

*Pope Gregory*, in his Instructions to *Austin*, *Bed Lib. 1. c. 27.* gives him great Liberty, as to the Use of a *Liturgy*, viz. [ That he should chuse what he thought most pleasing to the Almighty, whether that used in *Rome*, in *Gaul*, or in any other Church ] 'tis thought that he chose the *Gallic Forms* in respect to *Berta*, King *Ethelbert's* Queen, a *French Lady*; tho' it is not improbable that he left his Brethren, the other *English Bishops*, to the same Liberty which the *Pope* had given him. See *Bed. lib. 2. c. 20. ad fin.*

But the Successors of *Gregory* and *Austin*, within less than two Centuries, departed from this Temper, and got it Enacted in the Council of *Cleves*, *Anno 742.* That [ nothing shall be sung or said, but what is permitted by the Custom of the *Roman Church* ].

But Bishop *Stillings. Or. Br. p. 216.* has well observed, that there are many things in the *Roman Offices*, and have been there

10     *The Clergy-Man's Vade-mecum.*

a long time, which do not owe their beginning to the *Pope*, or that Church, but were borrow'd by them from others, *viz.*

1. Alternate Singing of *Psalms*, was taken from the Church of *Milan*, and was long before used in the *East*.

2. Singing *Gloria Patri*, &c. after every *Psalm*, was first the Practice of the *Gallic* Church. At *Rome* it was used of old, after the *Responsoria*.

3. *Te Deum* was composed, not by one of the Church of *Rome*, but by *St. Ambrose* of *Milan*, or *Noetius* of *Triers*.

4. The *Creed* was not used after the Gospel at *Rome*, till the Year 1014. but this Custom began in *Spain*, 531.

5. Only *Epistles* and *Gospels* were antiently read at *Rome*, but in the *East* and *Gaul*, Lessons out of the *Old Testament*.

6. In *Rome*, of old, there were no Sermons; but at *Milan*, and in the *Gallic* Church, every Sunday.

7. *Litanies* were first used in the *Greek* Church, afterward in the *Gallic*, and from thence taken by the Church of *Rome*, and this is especially true of the short *Litany*, or *Kyrie Eleyson*. And as for the *Gloria Patri* itself, the *Sursum corda*, the *Trisagium*, *Gloria in Excelsis*, Prayers for the whole *Estate* of *Christ's* Church, Commemoration of *Saints* departed, the words of Institution of the Sacrament, and the like, 'tis hard to say where they were first used; they indeed seem to be Apostolical Terms, introduc'd by those, who first settled Churches in every Country..

By

## *The Clergy-Man's Vade-mecum.* II

By this it will appear, That our Reformers Transcrib'd nothing into our *Liturgy*, but what was truly Primitive; nothing but what was borrow'd by the Church of *Rome* from other Churches, or what was used by that Church as well as others, while her Faith and Worship were uncorrupted; so that it may justly be said of our *Liturgy*, that it is the most Primitive and compleat Collection of Publick Devotion that is used in any Church in the World.

Therefore, no *Clergy-man* ought to think the *Liturgy* too long, tho' perhaps he may not have strength of Body to read all that is prescrib'd to be read every *Sunday Morning* at one Breath, as is now commonly done, and then Preach a Sermon, as is requir'd; if it be necessary to ease himself, he may do it by reading the three several Offices at three several times, or however at twice.

I call them three several Offices, for so they are:

1. The *Morning Prayer* is the first, and this, in King *Edw.* the VI's time, ended with the Collect for Grace, which is properly to be used at the beginning of the Day: The other Prayers have been added since, and are still directed to be omitted, when the *Litany* is used.

2. The *Litany* is of it self, a distinct Office, and an excellent one too. Dr. *Comber* has observ'd, that it is almost *verbatim* the same with that used by the *Danish*, and other *Lutheran Churches*: *Part. 2d. p. 307.* It is order-

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der'd to be said *after Morning Prayer*. What Interval there shall be, is, I suppose, at the discretion of the Minister. The 15th. Canon seems to direct the singing or saying of that by it self in the Church, on *Wednesdays*, and *Fridays*.

3. The *Communion Office*, is so distinct from the other two, that it is still commonly called, *Second Service*; and there is no direction at what time of the Day it shall be used, only Custom has determin'd it to be used in the Forenoon.

In the time of K. Charles I. Dr. Heylin, *Hist. Sab. Part. 2. cap. 4.* mentions two *SerVICES for the Morning*, on Sundays and Holy-days, the one beginning at Six a Clock, the other at Nine, tho' now (says he) by reason of the sloth, and backwardness of the People, in coming to the House of God, they are in most places join'd together.

I am well assur'd, that long since the Restoration, in the Metropolitcal Church of *Canterbury*, *Morning Prayer* was read at Six a Clock every Sunday in Summer, at Seven in the Winter, at Ten they began the *Litany*, and after a Voluntary, proceeded to the *Communion-Service*, and *Sermon*, and so it is, or lately was at the Cathedral of *Worcester*.

So then it appears, that the common Practice of Reading all three together, is an Innovation, and if an Antient or Infirm Clergy-man do read them at two or three several times, he is more strictly conformable: However, this is much better than to omit any

part



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part of the *Liturgy*, or to read all three Offices into one, as is now commonly done, without any pause or distinction.

Perhaps some would rather advise to leave out the *Sermon*; but *such Men* (says Bp. *Still.*) never well consider'd the design of our *Profession*, nor the way to support it, &c. p. 204. *Eccl.* Cases, and *Or. Br.* p. 230, &c. where he speaks admirably well of the Necessity of Preaching.

Not that a *Clergy-man* is to shorten, or curtail Divine Offices, to make room for a long *Sermon*: He that does this, does not *Conform to the Liturgy*, and so is false to his Promise and Subscription, and liable to the Censures of the Ordinary.

Only in the Office of *Visiting the Sick*, (says Bishop *Sprat*, Discourse to his Clergy) You are more left to your own Liberty. And the great Bishop *Andrews* drew up Forms to be used by the *Priest* in Visiting the Sick, which have been long since Publish'd.

CHAR.



## C H A P. IV.

*Of the Places of Worship, and the Ornaments thereunto belonging, and likewise of Parishes.*

**A**T first there was only one Church in each Diocese, viz. at the place where the Bishop with his Clergy resided, and perform'd all Divine Offices, as at *London, Canterbury*; from whence, as necessity required, *Presbyters* were sent out to Preach, and Baptize in the remoter parts of the Diocese. 'Tis probable indeed, that some other places of Worship were built here and there, in the time of the *British* Christians; as at *Glastonbury*, or *Avalon*, where *K. Arthur* was Buried; at *Evesham*, and in the *East* part of the City of *Canterbury*, tho' it could not be Dedicated to *St. Martin*, especially if Built in the time of King *Lucius*; for *St. Martin* did not Dye till *Anno Dom. 400.* and King *Lucius* is said to have liv'd in the Second Century.

The *Saxon* Thanes, or Noble-men, did very early begin to Erect Churches for their own convenience, *Bed. l. 5. c. 4.* which yet were not to be made use of, till Consecrated by the Bishop; and it was many Ages before the Parochial Division of Dioceses was effected: We cannot precisely say when this Work first Began, or when it came to a Settlement,

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element, so far is it from being true, that the Archbishop *Honorius* did this Work all at once, *Anno Dom.* 636. that it does not appear, that it was then thought of.

And yet this Work so far advanced in *K. Edward* the Confessor's Reign, that in his Laws (*apud Spelman*) 'tis complain'd of, that in some places there were three or four Churches, where formerly there had been but one; by which means, the Maintenance of the Officiating *Priest* was much lessen'd.

Kings, Bishops, and other Lords of Mannors, obliged all their Tenants to pay *Tythes*, and other Duties to the several Churches, which they Built within those Mannors, and endowed them with House and Glebe, and so the Bounds of the *Parishes* and Mannors were then the same.

And if the Lord, who built the Church, had Land belonging to him at any reasonable distance, he obliged his Tenants to retain to the Church built by him, and pay his *Tythes* to it, tho' the Land lay within the Precincts of another *Parish*, and in many Places they continue to do so to this Day. And if there were any Land within such Mannor or Parish, which did not hold of the Lord who built the Church, or were parcel of some Mannor, which had no Church built in it, then 'twas at their own discretion, to pay their *Tythes* to what Church they pleased, if it were so near, as that they could resort thither for Divine Service; but this Inconvenience was remov'd by *Pope In-*  
*nocent*

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nocent III. about the Year 1200. Of these Matters, see Bishop Still. *Eccl. Cases. Kennet* of Improvements, &c.

By the Old Civil Law, *Things Consecrated*, among which, in the first place, they reckon'd *Temples, belong'd to no Man*, as a Property. *Just. Instit. L. 2. Tit. 1.* but by our Common Law, the Free-hold of the Church is in the *Parson*, and, if the great *Tythes* be impropriated, in the *Vicar*; *Watsf. c. 39. p. 304.*

If the Walls, Doors, Roof, Windows, or Pavement be broken, the Incumbent, or his Tenants have an Action of Damage against him that did it, which the *Church-wardens*, or *Parishioners* have not. *Ibid. p. 295.*

No one can give License to Bury in the Church, but the Incumbent only; and yet the *Church-wardens*, by Custom, may have a Fee for Burying there. The Church-Yard is a common Burying-place for the *Parishioners*, tho' the Free-hold be in the Incumbent. *Ibid.*

But the Incumbents Free-hold does not Annul the Right of a Peer or Gentleman, to any Chapel, or Chancel, Built, or Repair'd time out of mind, by him and his Ancestors for a place of Burial, or to hear Divine Service.

The *Vicars* Free-hold does not extend to the great Chancel, the Free-hold of which is in the Impropiator, except the *Vicar* Repair it; which sometimes happens. Churches are to be Repair'd by the *Church-wardens*, and

the Charge of all the Inhabitants, or such as occupy Houses or Lands within the said *Parish*, by the particular Custom of *England*, and the Ecclesiastical Judge may Excommunicate the *Church-wardens* and *Parishioners* for Neglect, *Watsf. c. 39. p. 302.* Sir S. Degg proves, by good Reasons and Authorities, that Out-dwellers are chargeable for their Land, towards Ornaments, as well as Repairs of the Church, *Parf. Counsellor, p. 138.* And the Majority of the *Parishioners* may make a Tax for the Enlarging, or Rebuilding it, in case it fall down. *Ibid.*

The Church-yard is likewise to be Fenced at the Charge of the *Parish*, except there be a special Custom to the contrary.

And in *London*, by very Antient Custom, before *Lindwood's* time, the *Parishioners* have, and do Repair the Chancel. *L. 1. T. 10. c. Archidia. v. reparatione.*

When two Churches or Chapels are United, by 17th. of *Charles II.* and one of them be Demolish'd, the *Parishioners* of the Demolish'd Church shall equally Contribute to the Repairs of the standing Church.

Necessary Ornaments of a *Parish-Church*, are,

A Font of Stone with a Cover, the Font must be large enough to dip a Child in. See *Rubr. in Bapt. & Can. LXXXI.*

A Communion-Table, with a Carpet of Silk, or decent Stuff, and a fair Linen Cloth, with a Pattin, Chalice, and Flagon of Pewter, if not of purer Metal. *Can. XX. LXXXII.* There

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There must likewise be in every Parish-Church and Chapel, a Surplice, which the Minister is obliged to use, *in saying Mattins, Even-Song, Baptizing, Burying, &c.* by a Rubric at the end of *Edw. VI's Common Prayer Book*, Authoriz'd in the Second Year of his Reign, and enforc'd by the Rubric immediately before *Morning Prayer*, in our Present Liturgy, and by *LVIII. Can.* Ministers are to wear Hoods with their Surplices.

And here it is to be observ'd, that *Parochial Chapels*, differ only in Title from Parochial Churches, they being so called, either, because they, and the *Parishes* belonging to them, are very small, or because they have time out of mind been annexed or united to other Churches, and so for distinction-sake have the Name of *Chapels*.

And the same may be said of *Free-Chapels*, viz. such as have been Erected by Kings, for the convenience of their Families near their Palaces, or places of Retirement, and which have now Districts or Parishes belonging to them. These last are commonly exempted from the Jurisdiction of the Bishop.

*Chapels of Ease*, are such as are built in the remote Parts of large Parishes, for the convenience of the Parishioners; who yet were of old obliged to resort to the *Mother Church*, to Receive *Sacraments* and *Sacramentals*: Which Chapels, if they are not particularly endow'd by their Founders, are served at the Charge of the People who retain to them, or of the Incumbent of the *Mother Church*.



Church, according as Custom has been.

*Domestic Chapels*, are such as are built by Noblemen, or great Persons, for the Devotion of themselves and Families; neither these, nor any Chapels, except those which had Parishes belonging to them, were Consecrated, nor might the *Mass* in times of *Popery* be celebrated in them, without special License; and therefore it is said by *Lindwood*, that they might be built without the Bishops leave. See *Lind. in gloss. l. 3. T. 23. Quam sit, &c.* and I suppose 'tis for this Reason, that the Common Law says, that they do not belong to the Ordinaries Jurisdiction. *Watf. c. 23. p. 182. See Const. Otho. Basilic. gloss.*

Chapels belonging to Colleges in the University, and other such like Corporations, who receive the *Sacraments* apart from the Parish Church, are for the most part Consecrated, and yet not liable to be visited by the Bishop.

To *brawl, or quarrel in the Church or Church-yard*, is Punishable by the Ordinary. See *Eccl. Censures. To smite, or lay violent Hands on any Person, is Excommunication, ipso facto; to draw any Weapon, with intention to strike any Person, is punishable in the Temporal Courts, by having one Ear cut off, or, if the Party have lost his Ears, by being Branded with an F on the Check, see Stat. 5, 6. Edw. VI. c. 4.*

To disturb a Preacher in any Church, or Church-yard, is a Crime punishable, by the Justices, who, by 1. Mar. 2 Sess. c. 3. are to  
Imprison



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*Imprison such a Person without Bail, till he Repent.*

And by *Stat. 1 W. M. c. 18.* 'tis 20 *l.* Penalty to disturb a Preacher; but this last Act extends to them, who preach in Conventicles, as well as those who preach in Churches.

If the Goods of the Church be stolen it is Sacrilege and Robbery; and if a Person do in the Night break the Church and enter, he is guilty of Burglary. *Watsf. cap. 39. pag. 303.*

Every Bishop in the Church of *England* is now left to his own Discretion, as to the Form of Consecrating Churches and Chapels: There was a Form drawn up in the Convocation, *A. D. 1661*, but it was not authorized or publish'd; and in case a consecrated Church be polluted by Murder or the like, the Form of Reconciliation (as the *Canonists* style it) is likewise at the Bishop's Discretion.

C H A P.

CHAP. V.

*Of the QUEEN's Supremacy.*

THERE is no Doctrine of the Church, no Right of the Crown so guarded with Articles, Canons and Statutes, as, *The Queen's Supremacy in all Causes, and over all Persons, as well Ecclesiastical as Civil.* See *Artic. 37. Can. 1, 2. Stat. 25 Hen. 8. c. 19, 20, 21. 1 Eliz. 1, &c. Queen Elizabeth,* in her Injunctions 1559, explains the Meaning of this *Supremacy or Headship*; that is, *under God to have the Sovereignty and Rule of all Persons born within her Realms and Dominions, of what Estate (either Ecclesiastical or Temporal) soever they be; so as no other Foreign Power shall; or ought to have any Superiority over them.* This *Supremacy* chiefly consists in these following Particulars, *vi.*

1. In that the Archbishops of either Province cannot summon their Bishops and Clergy to Convocation, nor enact any Canons without the Queen's express Consent; by *Stat. 25 H. 8. c. 19.* Whereas before the making that Act, the Convocation was often call'd, and Laws were by it made for the Governing of the Church, without any Authority from the Crown.

*The Court of Delegates.*

2. In that there lies an Appeal from the Archbishop, to the Queen in *Chancery*; and

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and upon such Appeal, a Commission under the Great Seal is to be directed to certain Persons, whereof commonly half are of the *Clergy*, half of the *Laity*, which is called the Court of *Delegates*, and which finally determines all *Ecclesiastical Causes*, by *Stat.* 25 H. 8. *cap.* 19. sometimes a Review is granted. Whereas, before that Statute, the Appeal from the Archbishop's Court lay to the Pope only.

3. The Queen can grant Commission for Visiting such Places as are exempt from the Jurisdiction of the Bishops and Archbishops; and an Appeal lies from Courts in such Places, to the Queen in *Chancery*: Whereas before this Act, the Pope could only Visit them, and receive Appeals from these Courts.

4. They that are in Holy Orders now, and ever since the *Statute* 28 H. 8. c. 1. are no more exempt from the Queen's Temporal Laws, than the Laity: Whereas in antient times, a Clergy-Man, tho' convict of Murder, Felony, &c. could not be sentenced or executed by the Temporal Judges, or Officers; but was delivered to his Ordinary, and by him committed to Prison, and after some time admitted to a Compurgation, by which means he was generally acquitted: But if the Crime were very notorious, or the Criminal very scandalous indeed, he was kept in the Prison of the Bishop, or of some Monastery, where it was pretended he did Penance in Bread, and Pulse, and Water, during the remainder of his Life. In after-

times,

times, if the Clerk convict in a Temporal Court could not purge himself of the Crime to his Ordinary, he was degraded, and then as a Lay-Man deliver'd over to suffer the Law by the Secular Power. Afterwards, a Lay-Man that could read, was in some Cases allowed the same Benefit, as if he had been in Holy Orders. This Privilege, which was one of those for which *Becket* lost his Life, was lessen'd very much in *H. 7th's* time, and in *H. 8th's* in effect taken away.

5. Now the Bishops and Clergy neither Swear, nor pay any Obedience to the Pope: Whereas till the Reign of *H. 8.* all Bishops, Abbots, &c. took an Oath of Obedience to the Pope; and all the Clergy, both Regular and Secular, to them. And it was a prevailing Doctrine, That if the Commands of the Pope and the Prince were contradictory, they ought to obey the Pope rather than the Prince: But now both Prelates and other Clergy-Men are entirely the Queen's Subjects, and so (I dare say) they desire to continue.

Farther, the Queen has several Prerogatives in Church-Matters, *viz.*

1. Her Majesty is Patroness of all the Bishopricks and Deanaries, and of most of the great Prebends; but the Earl of *Derby* is Patron of the Bishoprick of the Isle of *Man*, and the Deanary of *St. Asaph* is in the Gift of the Bishop.

2. The Queen, by her Prerogative has a right to the Revenues of all vacant Bishopricks; and farther, Presents to all Dignities and Bene-

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Benefices that are in the Gift of those Sees that become vacant, between the Death of the former Bishop, and the Consecration of the next; and likewise to all that were vacant before the Death of the former Bishop, and not filled by the Induction of a Clerk before the said Bishop's Death. See *Watf.* c. 9. p. 48.

3. No Dispensation granted by the Archbishop of *Canterbury* shall be of Force without Royal Confirmation under the Broad Seal, unless it be a Dispensation, for which less than 4 *l.* was to be paid by the Pope's Tax. *Stat.* 25 *H.* 8. c. 20.

4. The First-fruits, and Tenths of all Ecclesiastical Preferments were by *Stat.* 26. *H.* VIII. c. 3. and other Statutes, settled on the Crown; but Her present Majesty hath, by virtue of an Act of Parliament, settled them on a Corporation of the most Reverend, and Honourable Persons in the Nation, for an Augmentation of the Maintenance of the poorer Clergy.

5. The Queen may qualify as many Chaplains as she pleases, and give them as many Livings of her own gift, as she thinks fit. *Stat.* 21 *H.* 8. c. 13.

6. The Queen may recal her Presentation any time before the Clerk be inducted, whereas the Church is filled against any other Patron, or Person by Institution. *Watf.* c. 20, p. 150.

The Queen presents to all Preferments that are vacant, by reason of any Corrupt Bargain,



Bargain, or Contract, by *Stat. 31. Eliz.*  
c. 6.

8. If the Incumbent of any Dignity, or Benefice be promoted to a Bishoprick. The Queen presents to all the Preferment, which the Bishop had at the time of his Promotion: but if the Bishop be permitted to hold any such Preferment in *Commendam* with his Bishoprick, and do afterwards resign, or otherwise Vacate his *Commendam*, the next Presentation comes to the Legal Patron. *Watf. p.*  
49, 50.

9. If the lawful Patron, Bishop, or Archbishop neglect to present, or collate to a vacant Church, the several *six* Months which the Law allows to every one of them, then the Benefice Lapses to the Crown, and the Queen shall present for that turn: and she may take her own time to present. *Watf. c. 12.*

71. But here it is to be observed, that the Queen does not bestow personally any Preferment under the yearly value of 20*l.* in her own Books. *Watf. c. 13. p. 98.* says was formerly 20 marks. The Lord Chancellor, or Keeper, presents in the Queens Name to all Preferments under that value, and this whether the Right be Original, or only by Lapse: and if the Keeper do give a presentation under the Broad-Seal for one of the Benefices in the Queens immediate Gift, yet if the Clerk get Induction by virtue of that Presentation, it seems it shall be good; except the Queen do repeal such Presentation of the Chancellor (of which Presentation she



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need give no notice to the Bishop) before such Induction. See *Watsf. c. 10. p. 155, 156.*

10. No Benefice can Lapse from the Queen to the Ordinary, or other Person.

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C H A P. VI.

*Of Archbishops and Bishops.*

**T**HIS Church, as all others, was from the beginning of Christianity govern'd by *Bishops*. We meet with three of them subscribing the Decrees of the Council of *Arles*, *A. D. 314.* and there were three others at the Council of *Ariminum*, *A. D. 359.* *Fastidius*, a *British* Bishop, has a Book still extant *De vita Christiana*, he flourished 420. *Bede* mentions no less than seven *British* Bishops meeting *Austin* at the second Interview. *L. 2. c. 2.* Who all strictly opposed the Pope's Usurpation,

*A brief Account of the whole Process, which is by Law used in creating a Bishop, here follows;*

Upon the Vacancy of a See, the Dean and Chapter are to certify the Queen thereof in Chancery, and to request her leave to chuse another Bishop. The Queen at her Pleasure sends her *Congé de eslire* (*i. e.* leave to elect)

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to the Dean and Chapter, nominating the Person, whom she thinks fit to be chosen. The Dean and Chapter are obliged, within twenty days next after the receipt of this License, to make the Election, which (after a first, and second modest Refusal) being accepted by the Party elected, is certified both to the Queen, and Archbishop of the Province. The Queen hereupon grants her Royal Assent under the Broad-Seal, directed to the Archbishop, together with a Mandate to Confirm, and Consecrate him. The Archbishop gives a Commission to his Vicar-General to proceed to Confirmation, which is a long and formal process; but the most observable parts of it are, a Citation of all such as have any Objections against the Bishop Elect to appear and offer them; and a Diduction of all that has past in relation to the Election, and the Royal Assent, the particulars whereof are exhibited by the Proctor of the Dean and Chapter to the Vicar-General; after which, the Oaths of Supremacy, Simony, and Canonical Obedience are taken by the Bishop Elect; upon which Sentence is read, and subscribed by the Vicar-General, whereby the election is ratify'd, and decreed to be good. Next follows the Consecration, perform'd by the Archbishop and two other Bishops: then the Archbishop sends a *Mandate* to his own Archdeacon to instal the Bishop in that Cathedral Church, which belongs to his See, which is ofteneft done by Proxy. And the publick Notary there present, records the

whole Process in an Authentick Instrument, to be kept to Posterity. After which the new Bishop is introduced to the Queen to do Homage.

Between the Election, and Consecration the intended Bishop's Title is, *The Lord Elect of* — See *Stat. 25. H. VIII. 20.* upon his Consecration he has a Right to the Temporalities, but cannot sue for them till his Consecration be certified by the Archbishop, but the Queen may grant the Bishop his Temporalities immediately after Confirmation. By his Confirmation he is instated in the Jurisdiction of his Diocese, so as to excommunicate, and certify it; and therefore the Power of the Guardians of the Spiritualities ceases from that time forward. *Godolp. c. 3. sec. 6, 9.*

Upon the Translation of a Bishop to another See, the same Forms are repeated, only the Consecration omitted. And when an Archbishop is to be created, the Royal Commission is sent to the other Archbishop, and two Bishops, or else to four Bishops. See *25. H. VIII. c. 20.*

And here it is to be observed, that the Bishop's Jurisdiction is confin'd to a place, viz. his own Diocese, and therefore he cannot excommunicate those of another Diocese, nor institute a Clerk into a Benefice that lies within the Bounds of another Bishoprick, (tho' it is not necessary that the Bishop be within his own Diocese when he institutes, but that the Benefice to which he institutes be so.)

*Wat.*

*Watf. c. 15. p. 109.* But as to his Power of Orders, that is universal, infomuch that *Irish* Bishops may ordain in *England*; nay we are told that the Bishop of *Spalato*, while he was amongst us, conferr'd *Holy Orders*; and the Validity of Orders so given is not disputed; but regularly leave ought to be ask'd of the Bishop, within whose Diocese Ordination is perform'd; and by the Constitution of *Edmund* Archbishop of *Canterbury*, Clerks thus irregularly ordained are suspended, till they purchase a Dispensation. See *Lynd. L. r. Tit. 4.*

## A R C H B I S H O P S.

As Bishop *Beveridge* hath learnedly proved that Metropolitans, or Archbishops, are as Ancient as the Apostolical times, tho' they were not for some Ages called by either of these Names, or Titles, but only *Primi Episcopi*. So the old *British* Christians are believed to have had at least one Archepiscopal See amongst them, before the times of *Austin* the Monk, viz. at *Caer-leon*, or *Landaff*, as some would have it. See *Stil. Or. Br. p. 202.*

Bishop *Stillingfleet* labours to prove, that *London* was an Archbishop's See before the Invasion of the *Saxons*; but Bishop *Beveridge* truly says, that this is wholly uncertain. *Pope Gregory's* Letter to *Austin*, *Bed. L. 1. c. 29.* orders his Metropolitcal See to be at *London*; but perhaps that Letter is not genuine, at least King *Alfred* did not think it so; for he has

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not translated it ; or if the *Pope* did so intend it, he was over-rul'd by King *Ethelbert*. For it is certain that *Austin* fix'd his Archepiscopal Chair at *Canterbury*, which was then the Capital of *Ethelbert's* Kingdom, whose Dominion reached from *Kent* to the River *Humbre* : and ever since that time *Canterbury* has been an Archbishop's See. 'Tis true King *Osta* erected another at *Lichfield* in the time of Archbishop *Lambert*, 764, and laid the greatest half of the Province to it ; but this was of scarce forty years duration.

#### *The Archbishop of Canterbury.*

Dr. *Thomas Benison*, the present Archbishop, is the 80th from *Austin* : he was translated from *Lincoln* to *Canterbury*, Jan. 16th, 1694. Which was eleven hundred years (save two) from the first arrival of *Austin*.

The Privileges belonging to this See are ;

1. To call the Bishops and Clergy to Convocation, which, before the Stat. 25. H. VIII. the Archbishop did without a Royal License, or Mandate ; but since that Act he is not to do it, under pain of *præmunire*, without leave from the Crown, which is Legally and of course granted, so often as a new Parliament is call'd.

2. He is President of the Convocation, when met, and he dissolves it.

3. He has power of visiting, and censuring all other Bishops within his Province. 'Tis lately disputed, whether he can proceed to the Sentence



Sentence of Deprivation, or not; however in such Cases the Arch-bishop takes other of his Comprovincial Bishops as Co-assessors with him.

4. Upon Occasion he appoints Co-adjutors to other Bishops, if they grow infirm, or disabled, see Archbishop *Sheldon's* Letter to Bishop of *Gbezna*, 1676. and during the Vacancy of any See within his Province, he commits the Ecclesiastical Jurisdiction to what Persons he thinks fit: But the Dean and Chapter of *Canterbury* are Guardians of the Spirituality for the whole Diocese, and Province, during the Vacancy of that Archbishoprick.

5. To him, in his Court of Arches, lie Appeals from the Courts of all other Bishops, and Archdeacons within his Province.

6. He hath the Probate of all Wills, and granting Letters of Administration, where the Party deceased had 5 *l.* in Money or Value, out of the Diocese wherein he died, or 10 *l.* within the Diocese of *London*; or if the deceased were a Bishop.

7. He has exempt Churches in several Dioceses, visitable by no other Bishop but himself; and generally Churches that were originally of his Patronage, are still under the Jurisdiction of him, and his Commissary or Dean of the Arches only. His other Advowsons came to him by the Dissolution of Monasteries.

8. He has the Choice, or Option of any one Dignity, or Benefice in the Gift of every Bishop consecrated by him.



### 32. *The Clergy-Man's Vade-mecum.*

9. He has Power of dispensing, in any Case wherein Dispensations were formerly granted; and may grant such Dispensations to the King and Queen: But if the Case be new, the Queen and Council are to be consulted. *Stat. 25 H. 8. c. 20.*

10. He dispenses with Clergy-Men to hold more Benefices than one; but such Dispensations are to be ratified by the Queen in Chancery, at least if the first Benefice be above 8 *l. per Annum.*

11. 'Tis to be observ'd, that he grants these Dispensations not only within his own Province, but also in the other of *York*: So that in this respect he is justly stiled *Primate of ALL ENGLAND.* Some have said, that he has Power to call the Archbishop of *York* to a National Synod, and that the latter is bound to observe his Summons. See *Chamb. Present State of ENGLAND, c. 10. Of Eccl. Government.* But of this there is good reason to doubt.

Farther, this Archbishop enjoys several great Temporal Honours, *viz.*

1. He is the First Peer of *England*, and takes place of all that are not of the Royal Family.

2. He does, of Ancient Custom, Crown the King or Queen.

3. He is always one of the Lords of the Privy Council.

*Arch-*

*The Archbishop of York.*

The Archbishop of *York* has the Antient Rights, and Authority of a Metropolitan within his Province; and he was likewise stiled *Legatus natus* to the Pope, before the Reformation; as the Archbishop of *Canterbury* also was from 1138, till Archbishop *Cranmer* renounced this Title in Parliament, 1535; and they likewise both of them received a Pall from *Rome*, for which they paid a most unreasonable Sum. This Pall is the Arms, or Device of the Archbishoprick of *Canterbury*. 'Twas pretended to be an Ensign of Archiepiscopal Authority, but was in reality a Badge of Slavery to the See of *Rome*.

The Archbishop of *York* takes place of all the Peers, except his Elder Brother of *Canterbury*, and the Lord Chancellor. And tho' he cannot grant such Licenses and Dispensations as the Archbishop of *Canterbury*, not even to those of his own Province and Diocese; yet he grants Licenses to *Clergy-men* not to reside on their Benefices, for some limited time, and for Persons to be ordain'd Deacons under age, &c. and for Marrying in times and places, not otherwise allow'd by the Canon, which likewise all other Bishops may do in their severall Dioceses; for they are all allow'd to have power of dispensing in such cases as formerly they used to do, Stat. 25. H. VIII. c. 21. the Bishop of *Norwich* has this particular Privilege, that he can dispense with the Clergy

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of his own Diocese to hold more Benefices than one.

As the Archbishops, so every Bishop has two several sorts of Power, the first that which cannot be delegated to any that is not a Bishop, *viz.* to ordain, confirm Persons that have been baptized, to depose or degrade Clergy men, to consecrate Churches, &c. the other sort of Power with every Bishop, as well as Archbishop, has within his own Diocese, is, that which is now commonly delegated to Doctors of Law; or other Lay-Men, which is to prove Wills, to license Chirurgeons, School-Masters, &c. to hear Causes of Matrimony, Tithes, Defamation, and whatever other matters are of Ecclesiastical Cognizance; to hold Visitations, and decree Excommunications, which are to be denounced by the Curate of the Parish where the Party Excommunicate dwells.

All Bishops are Peers of the Realm, and Lords of Parliament (except the Bishop of *Man*) and have Precedence of all Temporal Barons. And the Bishops of *London*, *Winchester* and *Durham*, before the others; the rest take place according to that Order or Series in which they were consecrated.

Ever since the Reign of *William the Conqueror*, the Bishops hold their Temporalties *per Baroniam*, by which they are bound to attend the Queen in Parliament. In the preceeding Ages they were always called to the Great Councils together with the *Proceres Regni*;

but were not very forward to come. What now is courted as a Privilege, was then avoided as a Service and Burden.

Every Man which is to be ordained, or consecrated Bishop shall be full thirty years of age. *Pref. to the Ordination service.*

At the end of the *Common Prayer Book*, Established by Parliament in the second year of *Edward VI.* which is refer'd to in the *Rubric* immediately before *Morning-Prayer*, in our present Liturgy, it is order'd, that *whensoever the Bishop shall celebrate the Holy Communion, or execute any other Publick Office, he shall have upon him, besides his Rochett, an Alb, and Cope, or Vestment, and also his Pastoral Staff in his Hand, or else born by his Chaplain.* See the Names of the present Bishops &c. in the Appendix.

By *Stat. 26. Hen. VIII.* The Archbishops, and Bishops hereafter mention'd, may constitute Suffragan Bishops, in the Towns following, viz.

Abp.	{	Canterbury	}	at	{	Dover	}
	{	York	}		{	Nottingham and Hull.	}

Bishop

Bishop of	{	London	}	at	{	Colchester.
		Durham				Berwick.
		Winchester				Guilford, Southampton,
						Wight Inf.
		Lincoln				Bedford, Leicester,
						Grantham, Hunt-
						ington.
		Norwich				Thetford, Ipswich.
		Salisbury				Shaftsbury, Marlbo-
						rough, Melton.
		Bath & Wells				Taunton.
		Hereford				Bridgenorth.
		Lichf. & Cov.				Shrewsbury.
		Ely				Cambridge.
		Excester				St. Germans.
		Carlile				Perith.

“ Any Bishop who desires a Suffragan, may  
 “ present two Persons to the Queen, of which  
 “ the Queen chuses which she pleases, and he  
 “ that is chosen by her Majesty, is to be Confe-  
 “ crated as other Bishops, but his Authority is to  
 “ be limited by Commission from the Diocesan.

And it may be observed, that as these Suffra-  
 gans have their Sees in Boroughs, not Cities;  
 so the four *Welch* Bishops have their Sees in  
 meer Villages. For *St. Davids*, *St. Asaph*,  
*Landaff*, and *Bangor*, are not so much as Parlia-  
 ment-Towns. There are now no such Suf-  
 fragans in *England*.

C H A P. VII.

*Of Priests and Deacons.*

THE second Order is that of *Priest* or *Presbyter*, in the *French Prestre*, the *Dutch Priester*, the *Spanish Presbytero*, our Fore-fathers *Ppeort*, is the same word, with a different Termination or Spelling.

None is capable of this Order, by our Statute Law, till he be full *twenty four years of age*. See *Pref. to Ordin. Service*, and *Stat. 13. Eliz. 12.* by which Act last mention'd; *All Toleration and Dispensations to the contrary are void in Law*. Young Clergy-men ought to take special notice of this: for if they be not Statutable Priests, they can have no legal Right to any Benefice, or Dignity.

No Man is to be ordained Priest or Deacon without a Title. This Title was originally nothing but the having ones Name enter'd in the Bishop's Roll or List, whereby he was obliged to bear his part in the Labours of the Clergy of that Diocese, and Entitled to a share in the Common Stock of the Church: since Dioceses have had other Churches, and Chapels, besides the Cathedral, a Title is an Insurance of being employ'd and maintain'd, as an Officiating Clergy-man, in some Cathedral, or Parochial Church, or other place of Divine Worship. And no one is to be ordained,



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ordained, by the 33d Canon, but in order to be a Curate, or Incumbent, or to have some Ministers place in some Church, or except he be Fellow, Conduct, or Chaplain in some College in the University, or be Master of Arts of five years standing, and live there at his own cost. The Bishop who ordains a Clerk without Title, shall keep him till he prefer him to some Ecclesiastical Living. *ibid.*

No Bishop ought to admit any Person into Sacred Orders, who is not of his own Diocese, except he be of one of the Universities, or bring Letters Dimissory from the Bishop of whose Diocese he is. *Can. 34.*

By *Stat. 13. El. 12.* He that desires to be Ordain'd Minister (that is, Priest) must bring a Testimonial from four Persons, known to the Bishop to be of sound Religion, of his Life and Doctrine, and be able to render an account of his Faith in Latin, according to the 39 Articles, or to have special gift or ability to be a Preacher. The 34th Canon requires Testimonials likewise for those who desire Deacons Orders, as well as Priests, either under the Seal of some College in the Universities, or of three or four grave Ministers, and other credible Persons, who have known his Life and Conversation for three years next before.

Further, both he that is to be admitted Priest, and he that is to be admitted Deacon, must take the Oaths enjoined by the 1st of *Will. and Mary*, before his respective Bishop, and make his Subscription to the Queens Supremacy.

premacý, the Lawfulness and Use of the Liturgy, and the 39 Articles. See *Can.* 36.

The Stat. 13. of *Eliz.* 2. requires the 39 Articles to be subscribed by those who would be Ordained Ministers. 'Tis entirely at the Bishop's discretion, whether he will admit one to the Order of Priest or Deacon; nor is he obliged to give any Reason for his Refusal.

By receiving Priests Orders, a Man is expressly empower'd *to preach in the Congregation, where he shall be thereunto appointed.* See Bishop *Stillingsfleet's Eccl. Cases*, p. 18. But they who do ordinarily preach in other Churches, where they are neither Incumbents nor Curates, must have a License from the Bishop. But even Deacons may preach in the Churches where they are Curates, says *Lind. L. 3. T. 4. in Gloss.*

During the Reign of Queen *Elizabeth*, and some time after, one Preacher supply'd several Churches with Sermons, by turns; and the greater patt of the Incumbents being not able to preach themselves, were obliged to procure others to do it: And none could thus preach in Churches belonging to other Incumbents, but such as were licensed. See *Can.* 46, 50, &c. and during this Scarcity of Preachers, the Seeds of Schism were sown by the Enemy, and took deep root.

For the Encouragement of *Preaching Ministers*, it was Enacted by a Clause in the 13 *Eliz.* 12. that No one shall be admitted to a *Benefice with Cure of Souls* of above 30 l. per An.

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An. *in the Queen's Books; unless he be Bachelor of Divinity, or a Preacher lawfully allow'd by some Bishop, or one of the Universities.*

He that is ordained Priest, and is Doctor of Divinity, is qualify'd for any Dignity in the Church, under that of a Bishoprick. The Local Statutes of the Cathedrals, and other Ecclesiastical Corporations, do generally make that Degree, either in Divinity or some other Faculty, necessary for their greater Dignities; and no one can hold two Benefices, that is not Master of Arts, *Can. 41.* And farther, the Incumbents of all Churches united by 17 *Car. 2. c. 3.* must be Graduates in one of the Universities: See also the Chapter of *Pluralities.*

The Qualifications for Deacons Orders, are in the main the same that are required for Priests: But in this they differ, that a Man cannot be dispensed with for receiving Priest's Orders before he be full 24: But a Faculty or Dispensation is expressly allow'd for him that is ordained Deacon, before he be 23; see *Pref. to the Ordination Service.* And indeed, by the Old Form of *Ordination*, a Deacon was not requir'd to be more than 21. It seems now to be left to the Bishop's Discretion, at what Age to admit one to be a Deacon.

Farther, a Man ought regularly to be a Deacon a whole Year, before he be ordained Priest; but the Bishop may ordain him sooner, if he please: *Rubr. to Ordination Service.*

But

But it were much to be wish'd, that this Rule were strictly observ'd. For one main Use, and End of Deaconship in the Church is, to be a Time of Probation, that it may upon Trial appear whether a Person be fit to have the Cure of Souls entirely committed to him.

The Deacon's Office with us, consists in Reading Divine Service, and Homilies, Catechising the Youth, Baptizing Infants in the Priest's absence, Burying, Marrying: See *Watf. c. 14. p. 103.* and to be assistant in the Care of the Poor; which last part of his Office is almost set aside by that Generous Provision for the Poor, made by several Statutes in, and since the Reign of Queen *Elizabeth*, not to be parallel'd in any other Nation.

The Form of Ordaining Deacons expressly says, that *'Tis the Office of a Deacon to assist the Priest in the Distribution of the Holy Communion*; and such I suppose has always been the practice: But Dr. *Watson* moves a Scruple, Whether the Deacon, by distributing the Cup, do not incur the 100 *l.* Penalty laid by that Act, (which ratifies this *Ordination-Office*) viz. 14 *Car. II. 4.* on those who administer the Sacrament of the Lord's Supper without being ordain'd Priest: But sure this might have been spared; for *to administer the Sacrament of the Lord's Supper*, does often signify the whole Action, or Solemnity of the Communion; and he that performs one part, of that which is assigned him by the Law and Canon, does not do the whole; nor does any one

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one call *the Cup* alone, *the Sacrament of the Lord's Supper*: But that it may appear, that this Law was not intended for a Snare, let it be observed how cautiously 'tis worded, viz. that *No Person shall presume to consecrate, and* [not or, as Dr. W. reads it] *administer the Sacraments, &c.*

A Deacon, before this *Act of Uniformity*, was capable of being Incumbent in a Church with Cure, and a Lay-Man in a Prebend, or other *Sine-Cure*: But now a Deacon can only be a Chaplain, or assist in serving a Cure, or at most preach a Lecture: For he may *Preach, if he be thereunto licensed by the Bishop*; and a License granted by any one Bishop, qualifies a Man for a Preacher any where else. *Watf. c. 15. p. 104.*

Our Church allows no Orders to be good, but what are conferr'd by Bishops; nor does it appear, that any Church ever did approve of Ordination perform'd without a Bishop, till a contrary Practice began of late in *France* and *Germany*; but the Primitive Church was the Pattern by which ours was reformed.

If any object a Crime against a Person to be Ordained, the Bishop is to forbear, till the Party be found clear of that Crime. *Rubr. Ord. Service.*

He that is born Illegitimate, cannot be admitted into Holy Orders without a Dispensation from the Queen, or Archbishop; and if he take a Benefice, he may be deprived of it, till such Dispensation be obtain'd. *Watf. c. 14. p. 102.* Let the Clergy-Man see his Name, and



and Ordination enter'd in the Bishop's Register.

The Bishop, if he think fit, may Ordain on any Sunday or Holy-day; but the Times mention'd in the Canon, and referr'd to in the Rubrick, are the Sundays next after the Ember-days; which, in the Laws of King *Alfred*, c. 39. are call'd, *ymb-pýne Saȝar* and in those of *Canute*, c. 16. *ymb-pen fæſten* i.e. the Circular Days, or Fasts: The first of these Weeks is in Spring or Lent, when Corn, and other Seeds are sown; the second at Whitsontide, when they are growing; the third in *September*, when they are gathered, and imbarn'd; the fourth in *December*, when they are marketed, and used; on which four Seasons the *Circle of the Year* turns. Mr. *Somner* therefore thinks that these Fasts were first instituted, to beg God's Blessing on the Fruits of the Earth, and our selves in the use of them, and not only on account of Ordination: The Canonists call these Ember-Weeks (as we now corruptly write them) *Quatuor Anni Tempora*, by which very Words they denote likewise the Four Quarters of the Year. See *Lyndwood, in Gloss. L. 1. T. 11. Quatuor in Anno.*



## C H A P. VIII.

*Of Deans and Chapters, Archdeacons and Rural-Deans.*

THE Bishops, in ancient times, had their Clergy residing with them in their Cathedrals, to be assisting to them in the performance of Divine Offices, and administering the Government and Discipline of the Church ; and even after Parochial Settlements were made, yet still there was a Body of Clergy-men, who continued with the Bishop at his Church, and were his Family, maintained out of his Estate: and after the Monastic Life grew into Reputation, many Bishops chose to have *Monks* rather than Seculars to live with and attend them in their Cathedrals : and these Bodies, of Monastics or Seculars, had the same Privileges of choosing the Bishop, and being his Council, which the whole Clergy of the Diocese had before : but by degrees their Dependance on the Bishop, and relation to him grew less and less, and they had distinct parcels of the Bishop's Estate assigned for their Maintenance, till at last the Bishop has little more left him than a Power of visiting them, and is scarce a Now'd to nominate half of those to their Preferments, who all were originally of his Family : and on the other side these Capitular Bodies did by degrees lose their former Privileges, particularly that

that of chusing the Bishop, for which the Kings of *England* had a long struggle with the *Pope*, till at last *Henry VIII.* effectually determin'd this Controversy in favour of himself, and Successors. For this Power is now really in the Crown by *Stat, 52. c. 20.* of that Prince, and the Dean and Chapter have only the shadow of it. Further the same Prince rejected the *Monks* out of those Cathedrals where they were before, and placed secular Canons instead of them, and those, whom he thus regulated, are called *the Deans and Chapters of the new Foundaton*, such are *Canterbury, Winchester, Worcester, Ely, Carlile, Durham, Rochester, Norwich* : and besides he erected five Cathedral Bodies *de novo*, and endow'd them out of the Estates of dissolved Monasteries, *viz. Chester, Peterburgh, Oxford, Gloucester, Bristol*, which were by him made Episcopal Sees, as also *Westminster*, but the Bishoprick of this last place is sunk, and the Monastery turn'd into a Collegiate Church by Queen *Elizabeth*.

Deans of the old Foundations, as *York, St. Paul's*, and the rest, are brought to their Dignities, much in the same manner with Bishops; whereas the Deans of the new Foundation are installed by virtue of the Queen's Letters Parents, without either Election, or Confirmation.

Canons, or Prebendaries come into their Preferments by Presentation, Institution, or Collation, and Induction. *Watsf. c. 15. p. 121* : but the Prebendaries of *Westminster* are install'd by virtue of the Queen's Letters Parents,

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tents, without Institution &c. *ibid.* 1. 1. 2.

Before the Restauration, and Act of Uniformity, meer Lay-men were sometimes made Deans and Prebendaries, and therefore it has been argued by some, that they are not Ecclesiastical, or Spiritual Bodies, but the contrary Opinion is the truest, especially since none but Clergy-men are now capable of them. See *Godol. Abr. c. 32. Sec. 34.*

Deans and Chapters, besides that Authority which they have within their own Bodies, have sometimes a Jurisdiction in several Neighbouring Parishes, and Deanaries and they also generally, as well as Bishops, have a Temporal Jurisdiction within their own Mannors, by virtue whereof their *Steward*, or *Seneſchal* holds a *Court of Pleas*.

Further, the Deans and Chapters of *Canterbury* and *York*, during the Vacancy of either Archbishoprick are Guardians of the Spiritualities of the several Provinces and Dioceses, that is, all the Ecclesiastical Jurisdiction belonging to the Archbishops, is in the Vacancy of the Sees, exercised by them, or their Commissioners; they visit, hold Courts, grant Dispensations, Institutions, &c. and as for matters of Order, they grant a Commission to some Bishops of the same Province. There was at *Canterbury* till the time of Archbishop *Lanfrank*, who was prefer'd to that See by means of *William the Conqueror*, a constant Suffragan, intitled the Bishop of *St. Martins*; who, *sede plenâ*, perform'd all things relating to Order in the Diocese, in the absence of the Archbishop;

bishop; and, *sede vacante*, in the whole Province. See *Somn. Antiq. of Cant. in the Catal. of Archdea.*

## ARCHDEACONS.

As Deacons were all Originally the Attendants, and Servants of their several Bishops in Church Affairs; so it is certain, that at the beginning of the fifth Century at furthest, there was in several Dioceses one chose out from among the rest, who had the Title of Archdeacon. By degrees this Office became universal, and they who had it, being always near the Bishop, they so improv'd their Advantage, that by the tenth Century they began to share with the Bishop in his Authority. In *Lyndwood's* time, it was a settled Rule, that the Archdeacon, of common right, could visit, *per modum scrutationis simplicis*, that is, I suppose so far only as to hear Causes, and enquire into Criminous Matters: for he presently adds, that *he had not Power in his own name to pass Censures, unless by special Custom.* See *Pro. L. 1. T. 10. gloss.* "And none who understand the ancient Constitution of this Church, can suppose either Archdeacons, or Deans and Chapters, to have any original Jurisdiction, since that Right was in the Bishop, before there were here either Archdeacons or Chapters with Jurisdiction, says Bishop *Still. Eccl. cases. p. 338.*

However 'tis allow'd that Archdeacons have now a Power, not only to visit, but suspend, excom-

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excommunicate, in many places to prove Wills, and in some to institute to Benefices: nay 'tis given us for Law, that "there are Arch-deaconries in *England*, which have no dependence on the Bishop, but are totally exempt. See Bishop *Still. ubi supra*. And yet the *Stat. 24. H. 8. c. 12.* expressly says, that *there lies an Appeal from the Archdeacon's Court to the Bishop's.*

'Tis one part of the Archdeacon's Office to Induct all Clerks into their Benefices, within his Jurisdiction, and 'tis the special Privilege of the Archdeacon of *Canterbury* to induct, or install all Bishops within that Province. See *Sommer. ubi supra*.

As long since as *Lindwood's* time Archdeacons were permitted to take Priest's Orders, and yet to retain their Office, and former Title, and it was the common Opinion then, that the Archdeacon, being in Priest's Orders, was superior to a Cathedral Dean. *Pr. L. 3: Tit. 1. c. 1. verb. Decani*. Now, by the Act of Uniformity, he is obliged to be in Priest's Orders. The Canonists gave the precedence to the Archdeacon, because of the largeness of his Jurisdiction: but the Dean is allow'd to be superior within the Cathedral. It seems not material in this point, whether the Archdeacon be Doctor or not; for *Jurisdiction* goes before Title.

## R U R A L - D E A N S.

Besides *Archdeacons*, there were formerly *Arch-presbyters*, or, which is much the



the same, *Rural-Deans*. Our Dioceses are still divided into Deanaries, and those Clergymen, who, under the Bishop and Archdeacon, had the peculiar Care and Inspection of the Clergy, and Laity of such a District, as is now call'd a Deanary, were *Rural-Deans*. They had power to visit, and hear Causes, and a sort of Authority latterward to correct delinquent Clergymen, but not to proceed to Censure; both they and Archdeacons were prohibited to meddle with Matrimonial Causes. They were sometimes allow'd to take the Confessions of the Clergymen within their Jurisdiction, at other times particular Persons were assigned by the Bishop for that purpose. They were obliged to have a Seal of their Office; but were removeable at pleasure; but jointly by the Bishop and Archdeacon. Sometimes they were Beneficed within the Deanary, which they had the Care of, sometimes not. See *Provinc. L. 1. T. 2. L. 2. T. 1. L. 5. T. 16. Const. Oth. Quoniam Tabell. Quoniam quod.*

The rest of the Clergy within the Deanary were called the *Rural Dean's Chapter*; but there are some Deans with Jurisdiction, but without a Chapter, as *Battel*, and *Bocking*; some Chapters without a Dean, as *Southwel*; some Chapters that have no Head but their Bishop, as *St. Davids* and *Landaff*; some say, that the Archdeacons preside there in the absence of the Bishop, or Vacancy of the See. And lastly, there are some Deans and Chapters in Churches which are not Episcopal

D                      Sees.



Sees, as *Westminster* and *Windſor*; and theſe are therefore called Collegiate Churches; as thoſe likewiſe are which have a Chapter, but neither Dean nor Biſhop.

## C H A P. IX.

*Of Benefices, Donation, Collation, Preſentation, Inſtitution, Induction, Subſcriptions, and Declarations; and alſo of Curacies.*

**A**LL Church-Preferments, except Biſhopricks, are Benefices. *Godolp. cap. 18. ſect. 12.* and all Benefices are ſometimes by the Canoniſts call'd Dignities. *Pro. L. 3. T. 1. Gloſſ.* but Biſhopricks, Deanaries, and Archdeaconries, are moſt properly called Dignities, both in Law, and in common Diſcourſe: But neither *Lyndwood*, nor *Watſon* allow Prebends in ſtrictneſs to be Dignities. *Pro. L. 3. T. 7. Gloſſ. Comp. Incumb. p. 4, 5.* And yet 'tis allow'd by all, that they muſt be Dignities, if there be a *Juriſdiction* annex'd to them.

Deans and Chapters are Corporations Aggregate.

Biſhops, Rectors, and Vicars are Corporations Sole; that is, they have a Power to receive Goods and Lands, &c. for the benefit of them-

## *The Clergy-Man's Vade-mecum.* § 1

themselves and Successors; except wherethey are restrained by Law.

A Prebendary, who has a distinct Estate and yet a Vote in Chapter, is a *Corporation Sole*, and a Member of a *Corporation Aggregate*.

But having already spoke of *Prebends*, I am now to say something of *Benefices*, so commonly call'd; which are *Parsonages*, or *Rectories*, and *Vicarages*.

*Parsonages* are Churches endow'd with Glebe, Manse, Tythes, and all other Duties payable by the Parishioners; and such originally were all Parish-Churches.

*Vicarages* are Benefices created for the maintenance of those Clergy-Men, who serve in Churches, where some, or all the Tythes are impropriated. At first the *Vicar* was a meer Curate, as we now speak, temporary, and removeable at pleasure: By degrees some Vicars got a settled Maintenance, distinct from the Impropiator; which Maintenance consisted of a Glebe and Manse, and some portions of Tythes, for the most part; but in some places only a Pension from the Impropiator; these were, and still are in Law called *Perpetual Vicars*, or *Vicars endowed*, to distinguish them from *Temporary Vicars*, i.e. Curates. Some Benefices that had of old been impropriated, have since been given to the Vicarage, and many Vicars have a good part of the great Tythes, or a Lease of them upon reasonable terms from the Ecclesiastical Impropiators. The Law makes no distinction between these Vicars, and others; but these are

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vulgarly called *Vicars endowed*: In this, and many other particulars, the Language of the Law differs from that of common Discourse.

There is another difference in Benefices, as to their Patronage, or the Method whereby the Clerk is to be put into Possession of them.

1. Are Presentative Benefices; for the obtaining of which, the Patron must present his Clerk to the Bishop, or other Ordinary to be Instituted, and the Bishop commands the Archdeacon to induct him.

2. Collative Benefices, are those which are in the Gift of Ordinaries, and within their own Jurisdiction; in which Case there needs no Presentation, but the Ordinary Collates or Institutes the Clerk, and sends him to the Archdeacon, or other Person whose Office it is to Induct them.

Donative Benefices are those, which being exempt from the Jurisdiction of the Ordinary, are visitable only by the King, or other Secular Patron, who puts his Clerk into possession of the Benefice by virtue of an Instrument under his Hand and Seal, without Institution, or Induction, or Examination by the Ordinary. Again, some Benefices have the Cure of Souls annex to them; some are said to be Benefices without Cure.

*Patronage of Presentative Churches.*

The greatest part of Benefices in the Church of *England* are Presentative: The Thanes, or Lords who built and endow'd Churches, having at first articled with the Bishops, that they should have the Privilege of presenting fit Clerks to serve, and receive the Profits of the Churches founded by them; which Right is therefore justly continued to their Posterity, and those who have purchased of them.

Of Common Right, the Parson is Patron of the Vicarage, but in Fact 'tis often otherwise: For when the Spoil of the suppress'd Monasteries was divided, the Parsonage was frequently given to one, and the Patronage of the Vicarage to another; tho' they had both of them formerly belong'd to the same Monastery.

Let the young Clergy-Man take special Care, that the Patron from whom he accepts a Benefice, have a true and undisputed Right of Presenting; for otherwise he may be put to excessive Charges in defending his Patron's Title, and yet at last lose the Benefice.

'Tis true, we are on all hands assured, that 'tis current Law, That if one, who is not rightful Patron, do in due Form of Law, without any corrupt Contract, present another Person to a *Presentative Living*, and in time of Peace, and if this Presentation do take effect, and Institution and Induction be thereupon ob-

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tain'd, and the Clerk remain Six Months in possession, before the true Patron do commence his Suit, that he thereby becomes lawful Incumbent, and shall enjoy the Living during his Life; and tho' at the next Turn the true Patron may recover his Right in most Cases, yet not in all; and that this in Law is a good Usurpation against all persons except the Queen; and that such a Title may be maintain'd, in case the Usurpation be made against a Bishop, tho' not against his Successors; (see *Watsf. c. 13.* throughout.) Yet I shall leave it all to serious Clergy-Men to consider, Whether they will run themselves into a Temptation of defending themselves by Law, against a Right acknowledged by that very Law.

If a Benefice fall vacant in the Gift of any person that is attainted or out-lawed, the Queen shall present for that Turn, not the Patron. *Watsf. c. 11. p. 69, 70.*

If the Patron be excommunicate by the space of 40 Days, his Clerk may be refused. *Godol. cap. 23. sect. 32. Watsf. cap. 20. pag. 40.*  
But *Quere,*

If the Patron be a *Papist*, or refuse to make, and subscribe the Declaration mention'd 1 *W. & M. 26*, all *Presentations*, and *Grants* of *Voidances* from him are null, and one of the *Universities* shall present: But this Law is very often defeated, by granting the Advowson to another *in Fee or in Tail for Life*, or *for Years*; which is not expressly prohibited by those Acts, 3 *Jac. 5 W. & M.*

If



If the Queen mistake her Title; as for Instance, present *Ratione Lapsus*, when the Advowson is in her *Jure Coronæ*, the *Presentation*, and all that follows thereupon is void in Law. *Watf. c. 20. p. 154.*

*Presentation* made, or bearing Date, while the Church is full of another Clerk, is void and null. *Watf. c. 20. p. 150.*

If a Corporation in presenting mistake the the Name of their Foundation, the *Presentation* is void; and so 'tis if a Master and Fellows, or a Dean and Chapter do present their Dean, or Master: But if they present one of their Prebendaries, or Fellows, 'tis a good *Presentation*; and so 'tis if two Joint-Tenants of the next Avoidance do present their Grantor; or if one of those Joint-Tenants present the other, he being in Holy Orders. *Ibid. p. 154, 155.* In other Cases, the Bishop may require a Joint-Presentation. *Ibid. p. 159.*

If the Queen present a second Clerk to a Living vacant, this is an effectual Revocation of the first; and the Bishop is a Disturber, if he do not institute the second Clerk: But if the first Clerk have got Induction before the Queen revokes, he is safe. *Ibid.*

But if a common Patron present first one Clerk, and then another, the Bishop may institute which he pleases. *Ibid. p. 157.*

A Patron cannot present himself, but he may pray to be admitted by the Ordinary, and such Admission is good: But if he present himself, tho' by a strange Name, he may be put out. *Ib.*

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Presentation may be made by Word of Mouth, in case the Patron be in presence of the Ordinary: Only *Corporations Aggregate* must present under their Common Seal. *Watf. c. 15. p. 105, 106.*

If a married Woman have the right of Advowson, she cannot present by herself; but the Presentation must be in the Name of the Husband, and the Wife, (except in case of a Queen-Consort) or in the Name of the Husband only. *Watf. c. 9. p. 47.*

'Tis a question if it be more proper for the Heir under Age, or the Guardian in his Name, to present to a vacant Living; there are precedents for both, and in some cases 'tis absolutely necessary that it should be done by the Guardian, or not at all, as before the Infant-Heir can speak.

In case the Patron do not present within six Months the Benefice lapses to the Bishop, if he do not collate within six Months following, it lapses to the Archbishop; if he neglect to collate within 6 Months, it lapses from him to the Queen, who may take her own time, and may remove any Clerk inducted to the Living without her Presentation, after the 18 Months are past; but if the Clerk that was Intruder die, or resign without fraud before the Queen presents, she has lost the advantage of the Lapse; for she has but one Turn, and that the next. *Watf. c. 12. p. 78.* This is meant of a Clerk presented by the true Patron, and instituted by the Bishop, to a Benefice laps'd to the Queen.

But if the Patron present his Clerk before the Bishop has collated, tho' the six Months are expir'd, yet the Presentation is good; and if he present to the Bishop, before the Metropolitan have collated, his Presentation is good, tho' twelve Months are pass'd since the Vacancy. If the Metropolitan collate before 12 Months are expired, this is no Bar to the Ordinary, or Patron; but if the Ordinary, after 12 Months are expir'd, do collate, this bars the Patron, and puts the Metropolitan to his *Quare impedit*. The Months are to be reckon'd by the Almanack, not by the Weeks. *Watf. c. 12. p. 77, 78.*

Sometimes it happens, that one has Right of Nomination, and another of Presentation to the same Benefice; that is, the latter may be obliged to present that Clerk whom the former thinks fit to name to him: And in this case, he that has the right of Nomination, is the true Patron. *Watf. p. 10. c. 47.*

When it is said that the Patron must present within six Months, the meaning is, that he must either in Person, or by his Letters missive, offer his Clerk to the Ordinary within that time; it is not sufficient that the Letters bear date before that time be expired. You have the Form of such a Letter-missive in the *Appendix*. And indeed it is safest for the Clerk to be actually presented some days, if not Weeks, before the six Months are pass'd: For otherwise, the Ordinary may complain that he has not Time to examine him, and so Lapse may incur. But if the

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Ordinary do wilfully delay to Examine the Clerk, no Lapse shall incur. *Watf. cap. 24. p. 190.*

The Bishop, or other Ordinary, *viz.* Guardian of the Spirituality, or Vicar-General, is Judge of the Ability of the Person presented, and to this purpose he may Examine him, and take time to enquire into his Life and Doctrine; *Watf. c. 20. p. 147.* and both the Canon and Common Law, allow the Bishop 28 Days time after Presentment made, for this purpose. And in case the Ordinary bid the Clerk come to him at a more convenient time to be Examin'd, and the Clerk do not come, the Ordinary may take the advantage of the Lapse. *Watf. c. 20.*

The Clerk is not bound to shew his Letters of Order to the Bishop, but he must prove his Ordination; and this is the shortest and easiest way of proving it. And if a Lay-man or Deacon do receive Institution, yet 'tis null and void, by Stat. 14 Car. 2. c. 4.

'Tis a sufficient Cause of Refusal, if the Clerk, being Presented to a Benefice in *Wales*, with Cure of Souls, do not understand *Welsh*, or if a Person that does not understand *English*, be Presented to such a Benefice in *England*; some (among which my Lord Cook) are express against admitting a *French Man* to any Benefice, and there were several Statutes to this Purpose; but 'tis doubted, whether they be in Force. *Watf. c. 20. 139, 140.*

*Perjury, Schism, Heresie*, and whatever other Crimes a Clergy-Man may be deprived for,  
are

are sufficient Reasons for the Bishop to Refuse him Institution.

It has been said, That a Clerk cannot be refused, for being a Haunter of Taverns, and a Player at unlawful Games, because those are only *Mala Prohibita*; and yet this has been deny'd to be Law. See *Watsf.* c. 20. p. 140. However 'tis certain, that *Drunkenness* is a sufficient Cause; for that is, *malum in se*.

*Bastardy*, without Dispensation, is a just Objection; but that the Clerk Presented is the Son of the former Incumbent, is not a good Reason of refusal. For, that Canon, *Ne Filius Succedat Patri*, is generally held, not to have been received in *England*; *Still. Eccl. Causes*, p. 359. but if the Ordinary does refuse such a Clerk, and the Patron present another, and the second get Institution and Induction, the first is without Remedy. So that if the *Clergy-Man* suspect that this may be his Case, his safest way is to get a Dispensation before Hand, from the Archbishop of *Canterbury*.

When the Bishop refuses to admit the Clerk presented, he must in reasonable time (Twenty two Days, has been adjudged too long a delay) send Notice to the Lay-Patron in Person, if to be found within the County, if not, by a Writing fixt on the Door of the vacant Church; and on such Notice, the Patron must present another Clerk within the Six Months, accounting from the time the Voidance happen'd; if he find that the Bishop's Reasons for refusing the Clerk presented, are sufficient.

But



But the Bishop is not bound to give any such Notice to an Ecclesiastical Patron, *e. g.* a Dean, or Arch-Deacon; nor is such a Patron allow'd to Vary, that is, to present another Clerk, except the Bishop give special Leave: So that if an insufficient Clerk be presented by a Church Patron, the Living is thereby laps'd to the Bishop. *Wats. c. 20. p. 158.*

But, if the Exceptions against the first Clerk presented by any Patron, are not thought sufficient; the Clerk has his Remedy in the *Ecclesiastical* Courts, and the Patron in the *Temporal*, the former by a *Duplex Querela*, the latter by a *Quare impedit*, against the Bishop.

The Bishops Objections must be, not only in General, but Special, *v. g.* not that he is a *Heretic* at large, but that he is *Heretical*, as to such, or such particular Articles of Faith, &c.

If the Bishop afterwards admit a Clerk, whom he at first refused for Insufficiency, the Law calls him a *Disturber*, in case the Patron have within his six Months presented another, and the latter shall turn out the former. *Godol. c. 23. p. 3, 39.*

### I N S T I T U T I O N.

If the Bishop admit a Clerk as sufficient, he either Institutes him in Person, and gives him his *Fiat*, or sends him to his Vicar-General, Chancellor, or Commissary, to do it for him.

And it is to be observed, that in Law, the Acts of these Substitutes are taken for the Acts

Acts of those; who Substitute them : And if these Chancellors do commit any Irregularity in Instituting, the Bishop whom they Represent is answerable for their Fault.

Before the Clerk is Instituted, he must Subscribe the 39 *Articles of Religion* ; and this Subscription must be made in Presence of the Ordinary, that is, the Person who Institutes. The Ordinary is not bound to offer the Articles to be Subscribed, but the Clerk is himself to offer to Subscribe them ; and he must Subscribe without any Reserve, Exception, or Qualification ; and if he do not before Institution Subscribe them in this manner, his Institution is *ipso facto* void and null ; the Church still remains void, by Stat. 13. *Elix.* cap. 12.

At the same time, the Ordinary requires the Clerk to Subscribe the other two Articles mentioned, *Canon 26. viz.* the Queen's Supremacy, and the Lawfulness and Use of the *Liturgy*.

Further, The Clerk before his Institution, shall Subscribe to that part of the Declaration enjoind by *The Act of Uniformity*, 14 Car. 2. c. 4. *viz.* *I will Conform to the Liturgy of the Church of England, as it is by Law Established* : The former part of the Declaration requir'd by that Act, is set aside, by Stat. 1 W. & M. c. 8. and the latter was requir'd to be Subscribed no longer than our *Lady-Day*, 1682.

The Clerk before Institution, must likewise take the Oaths mentioned in Stat. 1 W. & M. c. 8.

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c. 8. instead of the former *Oaths of Allegiance and Supremacy*, requir'd by Stat. 1 *Eliz.* c. 1.

And then follows the Oath against *Simony*, enjoin'd by the 40th *Canon*. *Dr. Watson* would have it thought, that this Oath is Abrogated by 13 *Car.* 2. c. 12. whereby 'tis provided, That no Oath shall be Administred by any Judge *Ecclesiastical*, whereby the Party shall be compelled to Confess, Accuse, or Purge himself of any Criminal matter; but it might with as good Reason have been inferr'd, that the *Oaths of Allegiance and Supremacy* were thereby Abrogated; for the Clerk is no more obliged to accuse or purge himself of *Simony* by the one, than of *Rebellion*, or *Popery* by the other.

And the Oath of *Canonical Obedience* is now likewise Administred to the *Clergy-Man*, before his Institution; and he has Certificates given him of his Subscribing the Declaration contain'd in the *Act of Uniformity* in *Englisk*, and in a distinct Instrument, under the Hand and Seal of the Bishop, and of his other Subscriptions, and Oaths in *Latin*, after he has first been Instituted, by Kneeling down before the Ordinary, whilst he reads the words of Institution out of a Written Instrument drawn beforehand for this purpose, with the Seal *Episcopal* Appendant, which the Clerk, during the Ceremony, is to hold in his Hand.

### ORDINARIES.

The *Clergy-Man* ought by all means to have some Witnesses of his Institution, taking the Oaths,

Oaths, and making Subscriptions; and none more proper than the Bishops, or Servants. He ought therefore to ask the Names of those who are present, and write them down among his *Memorandums* of Note, or desire them to write their Names on the backside of the Instruments.

Lastly, you are to receive from the Ordinary, a written *Mandate* to the Archdeacon, or other proper Person, to induct you.

By Institution, the Church is full against all Persons but the Queen, that is, no other Patron, or pretended Parron, can oblige the Bishop to Institute another Clerk, till he that was first Instituted, be by course of Law removed.

The Clerk by Institution, has the Cure of Souls committed to him, and is answerable for any Neglect in this point.

Also, he that is Instituted only, may enter upon the Glebe, and take the *Tythes*, but cannot Let, Grant, or Sue for them.

### I N D U C T I O N.

The Clerk upon Exhibiting his *Mandate* to the Archdeacon, or other Person, to whom it is directed, has a right to be Inducted by him; and in case he refuse to grant him Induction, there is Remedy against him in the *Ecclesiastical Court*; as, if he be an Archdeacon, in the Bishop's Consistory, where he shall be forc'd to do his Duty, if he cannot shew lawful Cause of his Refusal; or an Action of the Case

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Case may be brought against him at Common Law, by which Damages may be Recovered for his Refusal, or Delay. *Watf. c. 30. p. 230.*

If the Inductor, or Person to be Inducted, be kept out of the Church, or Parsonage-House by Lay-men, the Writ *de Vi Laici*, lies for the Clerk, which is directed out of Chancery, to the Sheriff of the County, to remove the Force, and if need be to Arrest, and Imprison the Persons, who make resistance.

If any other *Clergy-Man* presented by the same Patron, with the Person to be Inducted, keep possession, then a *Spoliation* is grantable out of the *Spiritual Court*, whereby the *Tythes*, &c. shall be Sequestred, till the Right be determin'd.

The Archdeacon does rarely in Person Induct a Clerk, but Issues out his Warrant to all Clerks and Letter'd Persons within the Archdeaconry, Empow'ring them, or any of them, to do it in his stead; and tho' it be perform'd by one that is not of the Archdeaconry, yet it has been judg'd good; but it is disputed, whether Induction made by any other Persons Warrant besides his, who of Custom ules to Grant it within such a Jurisdiction, be not void. *Watf. c. 19. p. 109, 110.*

If the Bishop, who gave the *Mandate* for Induction to the Archdeacon die, or be remov'd before Induction be had, it has been adjudg'd, that the Induction made afterward, by Virtue of that *Mandate*, is Null, but *Quare*. However, 'tis certain, that a Clerk that



that has received *Collation* and *Mandate* for Induction from a Bishop to a Living of his own Gift, loses the Benefit of both; if the Bishop die before the Clerk be actually Inducted. See *Chap.* of the Queens Supremacy.

Induction is commonly perform'd by some Neighbouring *Clergy-man*, who taking the Hand of the Person to be Inducted, lays it on the Key of the Church, which is then in the Door, and says, "By Virtue of this Instrument (meaning the Archdeacon's Warrant, which he holds in his Hand; or puts it into the handle of the Key) I Induct you into the Real; Actual and Corporal Possession of the Rectory or Vicarage of N. with all its Fruits, Profits, Members, and Appurtenances. Which said; he opens the Door, and puts the Rector into Possession of the Church, and shuts the Door upon him, who after he has Toll'd a Bell, if there be any belonging to the Church, comes out, and desires the *Clergy-Man* who Inducted him, to endorse a Certificate of his Induction on the Archdeacon's Warrant, and all that were present to testifie it under their Hands.

But the Clerk need not be Solicitous, concerning the Ceremony or Formality of the Induction. If the Church Key cannot be had, 'tis sufficient, that the Clerk take hold of the Ringle of the Door. If the Church be ruined, 'tis enough to lay the Hand on the Wall, or if there be no Wall, on the Fence of the Church-yard; and in case the Church  
Key

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Key cannot be had, it has been held sufficient, that the Clerk did within the time limited, read the *Common Prayer*, and 39 *Articles* in the Church Porch. *Watsf. c. 15. p. 112.* only 'tis fit that the Induction be as publick as may be; that so the *Parishioners*, and all that have, or may pretend a Right to the *Patronage* (who are to take Notice of it at their peril) may have no reason to say, that it was done Clandestinely; therefore the Tolling of the Bell is no insignificant Ceremony.

By Induction, the Clerk is compleat Incumbent, and has a Right *ad Beneficium*; as by Institution, he had Right *ad Officium*: And that he may retain both, he must strictly observe the Directions of certain Statutes as follows, *viz.*

By Statute 13 *Elix. 12.* within two Months after Induction, he must read the 39 *Articles of Religion*, agreed upon in *Convocation*, *Anno Dom. 1562.* and must declare his unfeigned Assent, and Consent thereto in *Common Prayer Time*; that is, after it is begun, and before it is ended.

By Statute 14 *Car. 2. c. 4.* He must, within two Months after he is Inducted, upon some *Sunday*, read the Book of *Common Prayer*, that is, *The whole Service of the Church appointed for that Day, both for the Morning, and Evening, and likewise declare his Assent, and Consent to the same*, in the Church to which he is Inducted, before the Congregation, after having read the same in the Form of Words appointed by the said Statute, *viz. I do declare*

*clare my unfeigned Assent and Consent to all, and every thing contained, and prescribed, &c.*

And by the same Act, he is likewise oblig'd to Read the *English Certificate*, under the Hand and Seal of the Bishop, and to make the Declaration in the Face of the Congregation, as the Bishop certifies he did before him, *viz.* *I will Conform to the Liturgy of the Church of England, as it is now by Law Establish'd.*

'Tis true, this last particular is not requir'd by the Act to be done so soon as the two former; 'tis sufficient, if done within three Months after Induction; but 'tis most common to make one Work of all, and to read the Certificate, and make that Declaration on the same *Sunday*, that the *Articles, &c.* are read.

And the *Clergy-man* ought to have two, or three Witnesses to read the *Liturgy, Articles, and Declarations* along with him, who may be able to Swear, upon occasion, that he did Perform all things, as by Law requir'd. And in the mean time, let them Attest it under their Hands, in some such Form of Words as you will see in the *Appendix.*

'Tis true, there are several Cases reported, *Wats. c. 15. p. 120.* whereby it does appear that 'tis sufficient for the Clerk, when he sues for Tythes, or Dilapidations, to prove his Institution and Induction; and that the Law does presume, that a Clerk who is instituted and inducted, has read the Articles, &c. and that the Defendant shall be put to prove that he

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he did not. Nay we are told, that in case a Clergy-Man have for several Years been in possession, he shall not be obliged at Common Law to prove his Institution and Induction; (tho' how many Years shall excuse him from the proof of it, does not appear.) *Watsf. c. 58. p. 521.* However, it is advisable that he so order Matters, that he may be able to prove all particulars. For *abundans cautela non nocet.*

It seems, that all Ecclesiastical Persons, within three Months after their taking any Benefice, by *Stat. 13 of W. 3. c. 6. and 1 Ann. c. 22.* are to take the Oath commonly call'd the *Abjuration Oath*, in the Court of Chancery, *Queen's Bench*, *Common Pleas*, or *Exchequer*, or else at the *Quarter Sessions*, where they reside.

Some Clergy-Men are made, I know not how, to believe that they are obliged to take the Test enjoin'd by *Stat. 25 Car. 2. c. 2.* but it does not appear that the Office of a Parochial Clergy-Man is either a *Civil* or a *Military Office*, or ever was deem'd so by Law; and no other Officers are bound by that, or any other Act to take the Test. Nor have any Judges, or noted Lawyers given their Judgment, that Clergy-Men are included, or intended by the words of it; neither hath *Godolphin*, nor *Watson*, who have written largely on the Legal Rights, Duties, and Obligations of Clergy-Men, given the least Hint that they are bound to take the Test: Only *Sir S. Degg* rais'd a *Quære* upon this matter, without giving any reason for it. *Parf. Counsell.*

p. 60. and some have taken his Doubt for a positive Determination. But I have been inform'd, that some of our Learned and Reverend Judges have repell'd Clergy-Men, when they have offer'd themselves in *Westminster Hall*, to take the Test on the account of their Spiritual Livings.

Bishops, and dignify'd Clergy-Men do indeed generally take it, and they may have more reason to do so than Parsons and Vicars. For they have a sort of Civil Authority annex'd to their Spiritualties; I mean, the Probate of Wills, Licensing Chirurgeons, keeping Temporal Courts, &c. But this Consideration doth not reach private Incumbents.

The Method of taking Institution and Induction to a Vicarage is the same with that by which a Clerk obtains a Rectory; only the Vicar takes an Oath of perpetual Residence, over and above all that which is done by a Rector; and without taking this Oath, his Institution is null and void, by the Constitution of *Otho ad Vicariam*.

### C O L L A T I O N.

There is no manner of difference between Institution and Collation, as to the Action itself, but this, that the Bishop does not present to such Livings as are in his own Gift, but immediately institutes his Clerk, in much the same form as he or his Chancellor institute a Clerk presented by any other Patron: And



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as the Bishop collates to Benefices of his own Gift *Jure pleno*, so he does to those which fall to him by lapse, by reason that a fit Clerk was not presented by the Lay-Patron in six Months time. If the Archbishop do not collate in six Months to a Benefice of his own Gift, it lapses to the Queen; if the Bishop, it lapses at the end of the first six Months, to the Archbishop; in six Months more, to the Queen. *Watf. c. 12. p. 76.*

And the Effects of Collation are the same with those of Institution, in case the Bishop's Title were good: But Possession by virtue of Collation from the Bishop or other Ordinary, will not make a Man a Legal Usurper, if the Benefice be in the Gift of a Lay-Patron, or the Queen; but an Usurpation by the Ordinary may in some cases hold against the Metropolitan, or other Collator. See *Watf. c. 12.* But Collation to a Benefice, when the Right is in the Queen, or Lay-Man, does not fill the Church against them; but the Bishop is bound to admit their Clerk, when presented: but till that can be done, the Clerk that was collated is Incumbent, as to all Ecclesiastical Matters, and shall receive Tythes, Offerings, &c.

If a Bishop collate to a Benefice laps'd to the Queen, tho' his Clerk die in possession of it, yet the Bishop may have the next Turn. *Watf. c. 12. p. 79.*

D O N A T I O N.

The Queen, or other Lay-Patron, does, without Presentation or Institution, sometimes by Ancient Right or Custom, put the Clerk into the possession of his Benefice: Yet in this Case the Clerk is bound to subscribe the Declarations, and take the Oaths enjoyn'd by 14 C. 2. and 1 W. & M. the first before the Bishop or Archbishop, within whose Diocese the Donative lies, from whom he must also receive a Certificate of his Subscription; and the other before the Patron, says *Watson*, c. 15. p. 123. And if it be a Benefice with Cure, he is also bound to subscribe the 39 Articles before the said Bishop or Archbishop, and to read the Common Prayer, and make his Declaration, as other Incumbents do.

If once a Patron present to a Donative Church, that Church shall always remain *Presentative*: but if any other Person present to such a Church, the Presentation is meerly void, and therefore Usurpation cannot be practis'd on them, tho' they be in the Gift of common Patrons, c. 15. *Watsf.*

A Donative, while it remains so, shall not be subject to Lapse, either to Ordinary or Queen; but the Patron may be obliged by Ecclesiastical Censures (says *Watson*, c. 12. p. 21.) to fill the Church. And if once it be made *Presentative* by the act of the Patron, then it also becomes subject to Lapse. And yet, if we may believe *Watson*, shall not be  
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Visitable by the Bishop, but by the Queen and Patron only, c. 12, 71, &c.

Bishopricks are (by many) said to have been Donatives, from the Conquest, to the Reign of King *John*; but I take this to be an Error: 'Tis true, our *Norman* Kings did Invest Bishops in their *Baronies*, *per Traditionem annuli & baculi*: But I suppose, no one will from hence infer, that Bishops were not Install'd in their Cathedrals, according to the Forms then prevailing, nor did take the Oath of Canonical Obedience to their Metropolitan, nor were Visited by them. He that will say this, may easily be disprov'd.

Dr. *Watson* would have it, that all the *Deaneries* of the New Foundation, and the *Prebends* of *Westminster*, are Donatives; because they come to their Preferment by the Queens Letter, without Institution. But I suppose, this cannot be said of Cathedral Deans, tho' they do not come in by Institution, because they are all, in some Measure, subject to the Bishops Visitation.

### S I N E - C U R E S.

No Church, where there is but one Incumbent, is properly a *Sine-cure*; if indeed the Church be *Down*, or the *Parish* become destitute of *Parishioners*, without which Divine Offices cannot be perform'd, the Incumbent is of necessity Acquitted from all publick Duty; but still he is under an Obligation of doing this Duty, whenever there shall be a

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competent Number of Inhabitants, and the Church be Rebuilt; and in the interim, if the Church be *Presentative*, as most such Churches are, the Incumbent is Instituted *ad curam animarum*: And these Benefices are more properly *Depopulations* than *Sine-cures*. And therefore, all that has been said of other Benefices, is applicable to them; and 'twill be proper for the New Incumbent to read the *Liturgy* and *Articles* in the Church-yard, if there be no Church.

The Constitution of *Stephen Langton*, Archbishop of *Canterbury*, *Quia juxta*, mentions some Churches that had several Rectors, others that had several perpetual Vicars, Incumbent on them at the same time; and *Dr. Wals.* c. 2. p. 4. tells us, there are still some Churches that have two Incumbents, each of which have the entire Cure of the *Parish*; but for the most part where there are now two Incumbents, the one is a Rector, the other a Vicar; and tho' both are Instituted equally, *ad curam animarum*; and tho' the Common Law say, that where-ever there is such Institution, this is an undeniable Evidence of Cure of Souls, *Wals.* c. 2. p. 6. yet 'tis certain, that the generality of these Rectors are not by Law oblig'd to any Duty; but the whole Care of the *Parish* is thrown upon the Vicar: And the Rectories of these *Parishes* are those which are commonly called, *Sine-cures*.

If such Rectories are conferr'd by *Donation*, without any Institution, as some of them are, they may strictly be called *Sine-cures*; but

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they, who by Institution have taken on themselves the Care of Peoples Souls, will be hard put to it to prove, that their Benefices are *Sine-cures*. The Lawyers say, that in this Case, the Rector has the Cure of Souls, *Habitualiter*, the Vicar, *Actualiter*.

Bishopricks, Deanaries, and Archdeaconries, were of old generally allow'd to have the Cure of Souls belonging to them; Some have said the same of Prebends, but with less Reason. Bishops have the Cure of their whole Dioceses, and Archdeacons do, in many particulars, share with them in their Spiritual Cares. The Dean was said to have the Care of his Canons, and of the rest belonging to the *Choir*; who were all in *Old Time* to make their Confessions to him, and receive Absolution from him, *vide Prov. L. 5. T. 16. Gloss.* but it does not appear, that the Canons, or Prebendaries have or had Cure of Souls, in this, or any other respect. They are indeed for the most part Instituted, but not *ad curam animarum*.

Nor indeed are Deanaries, and Archdeaconries, reputed Benefices with Cure, since the 21 *Hen. 8. c. 13.* and therefore none of them are bound to Read, or Subscribe the 39 *Articles*, by 13 *Eliz. 12.* nor any Incumbents of those Churches which have Vicar-  
endow'd belonging to them, and in this only Institution to *Sine-Cures*, differs from Institution to other Benefices.



CURACIES.

Benefices from which the Incumbents are permitted to be absent, or whose Parsons or Vicars are infirm, are served by Curates, whose Salary the Bishop may appoint. It concerns Curates to take License from the Bishop himself, not from his Chancellor, or other Ordinary : For all Licenses granted by any other but the Bishop, are voidable, if not void. *Still. Eccl. Cases.* p. 1601.

If the Bishop assign the Salary, the Curate's most effectual Remedy for his Pay, is, to apply himself to the *Ecclesiastical Court*; for there, in default of Payment, a Sequestration may be serv'd on the Benefice ; but if the Curate have no License, he cannot Sue in that Court.

However, if he be oblig'd to Sue for his Salary at Common Law, where 'tis sufficient to prove an Agreement betwixt himself and the Incumbent, yet he may be called upon to prove that he Subscribed, and Declared before his Archbishop, or Bishop, according to the *Act of Uniformity* : For not only Lecturers, but *all that do Preach any Sermon on any Day of the Week*, are bound to make their Subscriptions and Declarations as that Act requires, under pain of losing their Places, and being Imprison'd three Months without Bail.

He, who is Curate to a *Pluralist* in that Benefice, from which the Incumbent is

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for the most part absent, has the privilege of Leasing that Benefice reserv'd to him only, by 23 *Elix.* c. 11. but he forfeits his Lease if he be absent Forty Days from his Cure.

Dr. *Watson* will not allow, that a Benefic'd Clergy-man can Serve his own Church, and at the same time be Curate to another; or, which is the same thing, that any one can serve two Cures in Person: But there is one Law which will, I think, Answer all his Arguments; I mean that great Law of Necessity: For one quarter of the Churches in *England*, are not of themselves sufficient to Maintain their proper Curate, or Minister; and such Churches must be serv'd by halves, or not at all.

These Curates may be plac'd, and displac'd, at the Bishops discretion, without any process at Law.

P E R P E T U A L C U R A T E S.

But there are many Churches in *England*, all the *Tythes*, and *Profits*, whereof are impropriated, and no Vicarage endow'd. The Impropriators were oblig'd to Maintain Curates for performing Divine Offices. While these Impropriations were in the Hands of Monks, and other Ecclesiastical Persons, and Bodies, the Bishop had power to ascertain, increase, or lessen the Salaries of these Curates as well as others; nay, he had a further power of augmenting Vicarages endow'd, if he saw occasion; nor is there any Reason to doubt, but he has the same power still.

still. See *Watsf.* p. 140. 305. and *Kennet*, of Improvements.

But since those Benefices are fallen into the Hands of great Lay-Men, Bishops have been over-aw'd in this Matter : So that now in effect, the Improvements have these Cures serv'd, by whom, and at what Rates they please.

But those Curates are also Licensed by the Bishop, and I am assured, that they run in the same Form, at least in many places, with the Licenses of other Curates, and particularly *ad nostrum duntaxat Beneplacitum duratura* ; and yet, for distinction's-sake, these are called *Perpetual Curates* ; and indeed, whatever power the Bishops have in removing such Curates at pleasure, yet 'tis seldom or never made use of.

Many Curates, and Vicars, especially in those Benefices which are Improvements by *Church-Men*, have had good Augmentations made by the Favour of the Improvements since the Restauration ; and these Augmentations are secur'd to them, and their Successors, by *Stat. 29 Car. 2. c. 8.* and these Vicars, and Curates are by that Act declar'd *to be in the actual Possession* of these Augmentations. Now since these Curates have a Right by Statute to these Salaries, it should seem that they cannot justly be depriv'd of them, but by due form of Law, as other Incumbents may ; for by this Statute, these Curacies are made a sort of Ecclesiastical Benefices.

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Some of these Curates, have certain portions of *Tythes* settled on them, which are now likewise by this Act made their Property; but before this Act, paying their *Tythes* to the Curate, was no discharge against the Impropiator: For the Curate cannot prescribe against his Master, as the Law-books express it. *Godol. c. 32. Sect. 56.*

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## C H A P. X.

### *Of Pluralities, and Dispensations.*

**T**HE *Popish* Canon Law, forbid any *Clergy-Man* to hold more Dignities, or Benefices, with Cure, than one at the same time; yet not with an intent to hinder, or take away this Practice, but to oblige the *Pluralist* to let the *Pope* share with him in his Profits; for the Clerk was allowed to hold as many Dignities, or Benefices, as he could get, with the *Pope's* Dispensation, which was easily had from his *Legate* or *Nuncio*, Residing here, if Money were not wanting.

Both by that Law, and our present Statute Law, Prebends, and Rectories, where there is a Vicar endow'd, were, and are Reputed *Compatible Benefices*; that is, he, who had one, or more of them; and also one Benefice with Cure, needed no Dispensation; only a Prebendary, if he were by the Statutes of his Church, strictly obliged to perpetual Resi-

Residence, was not by the Canon Law permitted to hold any Benefice with Cure, without a Dispensation. See *Provinc. L. 3. T. 5. Audivistis, in Gloss.*

And now by Stat. 21 Hen. 8. c. 13. not only Prebends and Rectories, with Vicarages endow'd, but Deanaries and Archdeaconries, are declared to be *Benefices without Cure*; so that, whatever they were formerly, they also are now *Compatible*.

But by the afore said Statute, no *Clergy-Man* can hold two Benefices with Cure, if the first to which he was Instituted, Collated, or otherwise Possessed of, be worth 8 *l.* or more, without Dispensation from the Archbishop of *Canterbury*, Confirm'd by the Queens Broad Seal in *Chancery*; and he that without Dispensation takes a second, *ipso facto* voids the first.

The Valuation here meant, is generally taken to be that of the Queens Books: However, thus far, I suppose we may be secure, *viz.* That the first Living must be such a one as was worth 8 *l.* in Hen. VIII's time; and this will include all Livings that are not now worth more than 50 *l. per ann.* for the Value of Money is sunk at least, six parts in seven, since the Reign when this Act was made.

This Dispensation must be Taken, and Confirm'd by *Royal Authority*, before the Clerk be Instituted to his second Benefice; for if it come afterwards, it cannot Restore him to his first Living, which was *ipso facto* voided.



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by his taking Institution on a second, without Dispensation.

The Act says, the first Living shall not be void before Institution, and *Induction* to a second Benefice: Here all do Unanimously depart from the Letter of the Law.

Dispensations have sometimes been granted to hold any two Benefices, *cum clausulâ mutationis*; he that has such a Dispensation, if any of this sort be now granted, may take a third Living without a New Dispensation, and Resign which of the two former he pleases, before he is Instituted to the third; or if he do not Resign either of them, shall only Forfeit the first; but if the Dispensation be for two Benefices certain (as is most common) both are Forfeited, if a third Benefice be taken without a New Dispensation. See *Watf.* c. 3. p. 14. And such a Dispensation cannot be taken, till the Clerk certainly knows what those Benefices are, which he is to hold by his Dispensation: And this cannot be known till he be actually in Possession of one, and have the promise from the Ordinary of being Instituted to the other; or, however, not before the Ordinary has accepted his Presentations to both; or, if the second be a Donative with Cure, till the Patron has given the Clerk assurance of his Donation.

But there are certain Qualifications Necessary, besides Holy Orders, to Entitle a Man to such Dispensation, for he must be either the Legitimate Son, or Brother of some Temporal Lord, or Knight, ( the Sons, or Brothers of  
Baronets,

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Baronets, could not be intended by this Act; for this Honour was afterwards erected by K. James I.) or else Bachellor, or Doctor in Divinity or Law, not by Grace, or a Suffragan Bishop; or else retained as a *Domestic* Chaplain, by some Peer, or other great Officer of the Realm, or by some Widow Dowager of a Temporal Peer.

The Number of Chaplains which every Peer or other Person may qualifie, is as follows. 21 Hen. 8. c. 13.

Archbishop	8
Bishop	6
Baron	3
Lord Chancellor	3
Duke	6
Marquess, or Earl	5
Viscount	4
Knight of the Garter	3
Dowager of any Peer	2
Treasurer, or Comptroller of the Q's House	2
Queen's Secretary	2
Almoner, Dean of the Chapel	2
Master of the Rolls	2
Chief Justice of the <i>Queen's Bench</i>	1
Lord Warden of the <i>Cinque Ports</i>	1

It is provided by this Act, that no Chaplain shall have the Benefit of it, but he that shall Exhibit a Letter, testifying whose Chaplain he is, *under the Sign and Seal of the Queen, or other their Lord and Master.*

A Temporal Peer, tho' a Minor, may qualify by setting Hand and Seal; but if the Testimonial be signed before the Noble Person were actually a Peer, tho' he were of age, yet 'tis not good, except renew'd, after he become Peer. *Watf. c. 3. p. 9. 11.*

A double capacity in one and the same Person to qualify Chaplains, does but enable him to qualify Chaplains in his best capacity only. So if an Earl be Lord Chancellor, he shall not qualify eight; *viz.* five as Earl, and three as Chancellor, but five only, as Earl. *Godolph. c. 26. f. 4.*

If a Baron, who is allow'd but three Chaplains, qualify six, and all six are preferr'd to six several Pluralities, the three that are first promoted to Pluralities are only warranted by the Statute, say some; but there are Precedents to the contrary, *viz.* that they who were first retained, are only warranted. *Watf. c. 3. p. 10.* But if a Baron retain four at the same time, that is, I suppose, if their Testimonials bear equal Date, none of them are qualified.

If the Nobleman die, or the great Officer be removed, or the Chaplain be dismiss'd upon displeasure before he be promoted to a Plurality, his Qualification is void; but if he be preferr'd before any such Accident, he may hold his Plurality for Life, but cannot take another Plurality, without a new Qualification.

If a Nobleman, or other Patron be attainted, his Qualification ceases, as if he were dead. Dow-

Dowagers of Temporal Peers retain this privilege of qualifying two Chaplains each tho' they do afterwards marry with other Persons of a lower degree, by the express Words of the Act; but it is otherwise, if the Husbands discharge these Chaplains before they are preferr'd. *Watf. ibid.*

As the Chaplains of any of these great Persons die, others may be retained in their stead; but the Testimonial must be signed after the Death of those of the first Number. For 'tis a Rule, That the Person retaining must be capable to retain, at the Time when he Signs and Seals the Qualification. *Ibid.*

But the Chaplains of the Queen, her Brethren, Sisters, Uncles or Aunts, are likewise qualify'd by this Act to retain two Benefices; and those Royal Persons are stinted to no Number of Chaplains, but may retain as many as they please.

One of the Privy Council may purchase Dispensation to hold Three Benefices; and a Clergy-Man that is Chaplain to the Queen may accept, of the Queen's Gift, *any Benefices, to what Number soever, without incurring the Penalties of that Act*; and it does not appear, that any Dispensation is required in this last Case.

The 41 Canon does require, that none shall have a Plurality under the degree of Master of Arts, and that the two Benefices shall not be more than 30 Miles distant from each other; and Archbishops are generally very strict in these two particulars.

A Pre-

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A Presentation made by the University of a *Papist's* Living is utterly void, if the Clerk presented have any other Benefice with Cure. 3 *Jac.* 26.

He who takes two Benefices, both under 8 *l. per Ann.* is not subject to the Penalties of 21 *H. 8.* above-mention'd; but yet is liable to lose one, or both of them, without Dispensation; not by the Statute, but by the Canon Law: For the Constitution of the *Lateran* Council against *Pluralities* is a General Law, and is said to be as forcible as an Act of Parliament. *Watsf.* c. 2. p. 2. And by this Constitution, he who had taken Institution to more Benefices than one, is adjudged *de Jure* to have lost all, but the last: And in case he be obstinate, and endeavour to stand it out, he shall be deprived of that too. See *Const.* of Archbishop *Peckham*, Prov. L. 3. T. 6.

'Tis commonly said, that a Dispensation to hold two Benefices, whereof the first, or both are under-value, comes too late after Institution. *Watsf. ib.* p. 3. but *Quære*: For the taking a second Living does not, at the Canon Law, vacate the first *de Facto*; but 'tis full, till the Patron present, or the Bishop declare it void: And therefore tho' the Dispensation comes after the Church is full, it seems that it may be of force.

However, no Qualification requir'd by the Statute 21 *H. 8.* viz. of Birth, or Chaplainship is necessary in this case: For that is only necessary, when the first Benefice is more than 8 *l. per Ann.* But all Pluralists must be Masters of Arts, &c. by *Can.* 41. For



For ought that appears to the contrary, the Archbishop may dispense with a Clerk, to hold more than two such Benefices: For the Statute only forbids the taking more than two, when the first is above 8 *l.* and before that Statute, the Clerk might, by dispensation, hold any Benefices, to any number. *Antony Harmer* says, that Archbishop *Parker* granted Dispensations to hold three Benefices. *P.* 66.

Some have thought, that the Archbishop's Faculty alone, without the Royal Confirmation, is a sufficient Dispensation, when the first Benefice, or both are under value: But our Archbishops before the Reformation were not more forward to enlarge their power, than they since the Reformation have been modest and sparing in the use of it. For 'tis certain no Faculties for Plurality are now granted, but with an express proviso, that *they shall be void, without a Confirmation under the Broad Seal.*

There are undeniable proofs, that the Ordinary, with the consent of the Patrons and Incumbents, could before *Stat. 37 H. 8. c. 21.* unite two Churches; that is, make them as one to the Incumbent, so that he and his Successors might hold both, without Dispensation. Some say, that the King's consent was necessary, if each Church had sufficient Maintenance, but the *Canonists* deny this. The common pretence for uniting Churches, was the Poverty of one, or both: But there is good reason to believe, that Bishops did sometimes unite Churches upon another account;

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count; I mean, to excuse a Friend from the Charge of a Dispensation from the Pope. Sometimes the Pope himself confirmed the Union, and then it was good, notwithstanding any Error committed by the Ordinary; and what power the Pope had before in this matter, the Queen has now. This Act confirms Unions made before that time, *by the joint consent of Ordinary, Incumbents, and Patrons.*

But this Act does for the future make null and void the Union of Benefices, unless one of the Benefices be under 6 l. value by the Queen's Books, the Churches not above one Mile distant from each other; and except the Mayor, Sheriff, and Commonalty do give their consent, in case the Benefice lie in a City or Corporation. And if one of the Livings be under 6 l. value in the Queen's Book, yet if within one Year after the Union, the Parishioners do assure the Incumbent to make his Living 8 l. per Ann. In these cases, I say, the Union made by Ordinary, Patrons and Incumbent is void.

But 'tis said, that all Unions made by Ordinary and Patrons, with Royal Assent, are good, whatever the value be. *Watf. cap. 16. pag. 127.* and that either when the Church is void or full. *Quere*, If the Church be full; whether the Incumbent's Consent be not proper? However, 'tis necessary to an Union made by 37 H. 8. And therefore such Union cannot be made during Voidance.

“ By Statute, 17 Car. 2. cap. 3. any  
“ Churches, or Chapels, in Cities or Cor-  
“ porations may be united by the Bishop,  
“ with.

with consent of the Magistrates, when they are either full or void; if they be full, the Union not to take place till the Voidance of one of the Churches, to which the Incumbent of the other is to succeed; the Churches so united not to exceed the value of 100 *l. per Ann.* except the majority of the Parishoners under their Hands desire it so to be.

Farther, the Archbishop of *Canterbury* does grant Dispensation *for the Son to succeed*; but the necessity of such Dispensations in any case, except that mention'd in the former *Chapter*, does not appear: Nor have we any Instance of a Clerk, since the Reformation, depriv'd for succeeding his Father without a Dispensation: And indeed the great occasion of those Canons against the Sons succeeding the Father, is now remov'd; which was to discourage the Marriage of Priests, as any one may see by *Constit. of Otho innotuit*. They had indeed another pretence for it; which was, lest Benefices by degrees should become hereditary, and descend from Father to Son. See *Const. of Peckham, A. B. Prov. L. 1. T. 8*. They are certainly mistaken, who suppose that all the Children of Clergy-Men in times of Popery were illegitimate. "If the Son were begotten on a Concubine, then, says *Lyndwood*, *Gloss. ibid.* there are two impediments why he should not succeed, *viz.* Bastardy, and being the Son of a Priest. But a Priest might have Children before he entred into any Orders, or while he was in the Inferior Orders;

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ders; that is, while he was *Ostiary*, *Acolyte* or *Exorcist*: For the Subdeacon was charged to relinquish his Wife, but those in Inferior Orders might retain them; by *Const. of A. B. Wethershed*, *Prov. L. 3. T. 2. c. Siqui*; and it is said, that even Priests were generally married to the Women they kept in those days. See *Ant. Harmer*, p. 79. and tho' they kept it secret, for fear of Deprivation, sometimes till their death, yet they often took care that sufficient evidence of their being married might appear after their death, when they were out of the reach of this hard Canon Law. See *Const. of Otho*, *ubi supra*. And even a married Priest might, by dispensation from the Bishop, hold a *Sine-Cure*. *L. 3. T. 2. c. Siqui Gloss.*

C H A P

C H A P. XI.

*Of Voidance by Death, Cession, Resignation,  
Act of Law, or Deprivation.*

I. **T**HE first, and most natural means, whereby a Benefice becomes vacant, is the Death of the Incumbent; and the Patron is obliged to take notice of such Voidance at his peril; and if he do not present within six Calendar-Months, 'tis lapsed to the Ordinary.

II. A second means whereby a Benefice becomes void, is by Cession, and that,

1. By Statute; as when a Clerk having one Benefice of 8 *l. per Ann.* or upwards, takes a second of any value whatever, without a Dispensation, the first is *ipso facto* void; and the Patron is not to expect Notice from the Ordinary in this case, but may present as soon as his former Clerk is instituted to another Benefice: But the Living does not lapse, if the Patron present within six Months after the former Clerk's Induction. *Watf. c.2. p.3.*

2. Cession by Canon Law is, when a Clerk having one Benefice under 8 *l. per Ann.* value, takes a second of what value soever, without a Dispensation; for in this case, the former Living is only void *de Jure*; 'tis not void *de Facto*,



*Facto*, as in the former case : For if such a Clerk sue for Tythes due from his former Benefice, since his taking the second, 'tis no Bar against him, to say that he hath taken a second Benefice. *Watf. c. 4. p. 2.* Such a person is by the *Constit.* of Archbishop Peckham said, *plura beneficia de facto obtinere*; and, --- *sit privatus*, let him be deprived. Which had been very improper, had he been thought by the Canon Law to be *ipso facto* deprived, as by the *Stat. of H. 8.*

The Patron may if he please, present a Clerk to the first Benefice, so soon as his former Clerk is instituted to a second : But if he stay till the Ordinary do *ex officio* declare the Living void, and give notice of it to him, he is safe : For the six Months of Lapse do not commence, before such notice be given by the Ordinary to the Patron.

And if both Patron, and Ordinary do either by consent, or thro' ignorance of the fact, permit such a Clerk to continue in possession, he is safe; the first Living before Deprivation, cannot lapse either to the Crown, or Ordinary. If indeed the Ordinary do pass Sentence of Deprivation, then Usurpation may be practised; but no Stranger can disturb the Clerk, till Voidance be declared. *Watf. c. 12. p. 81, 82.*

Cession is not now made by taking a Deanery or Archdeaconry; because now they are declared not to be Benefices with Cure, by *Stat. 21 H. 8.* and Benefices without Cure make no Cession either by Canon or Statute Law.

BUT

But no Clergy-Man is capable of being Dean and Prebendary, or holding two Prebends in the same Church; but the first of these Preferments are said to be void upon taking the second. *Watf. c. 2. p. 5. Sed quare, quo jure?* But I take it, that this must be understood of such Prebends as give a Man right both *ad locum in Choro, & suffragium in Capitulo*. For if he have only a Stall in the Chaire by one place, he may I presume, hold another with it, whereby he has *suffragium in Capitulo*. Therefore the Archdeacon, because as such he has no Vote in the Chapter, may be either Dean or Prebendary in that Church where his Archdeacon's Stall is.

Yet a Man may have two Benefices in one Parochial Church, and if one of them be a *Sine-Cure*, by the *Stat. of H. 8.* he may hold both without Dispensation: And 'tis great pity but these *Sine-Cures* should every where be perpetually united to the Vicarages of the same Church; and I hear some of our good Bishops are heartily engaged in this Pious Work: But if the two Benefices in the same Church have both the Cure of Souls annex'd to them, they cannot be held without Dispensation, by one Clergy-Man. *Watf. c. 2. p. 4.*

What is called *Cession* in other Benefices, is called *Creation*, in relation to a Bishoprick. For if an Incumbent be made Bishop, his Benefice is said to be vacant by *Creation*: The Patron must take notice of this Voidance

dance at his peril. *Hughes, Parson's Law, pag. 164.*

III. A Church may become void by Resignation, and this must be made *sponte, pure, & simpliciter*; that is, without any Condition annex'd. It must be made personally, or the Instrument of the Resignation must be directed to the Bishop, or other Ordinary, who hath power to Institute to the Resigned Benefice. And 'tis at his Discretion, either to Receive or Reject the Resignation. See *Stillings. Bonds of Resignation, p. 66.*

If the Ordinary accept the Resignation, he is bound to give Notice to the Patron, and the six Months do not begin, till such Notice be given; but if the Patron present before such Notice, 'tis good.

A Donative must be Resigned into the Hands of the Patron.

In order to Exchange two Church Preferments, Resignation must be made to the several Ordinaries, and the several Patrons must Present, or Collate each to the others Benefice; so that if either of the Ordinaries, or Patrons, do not consent, no Exchange can be made. And in case of an Exchange, *Civilians* have allow'd, that Benefices may be Resign'd Conditionally. See *Parf. Counsellor, p. 167.*

If the Exchange be not Executed on both parts, or if the reason of the Exchange fail, either Clerk may return to his former Benefice. *Watf. c. 4. p. 17.*

If

If Money be given on either side, in order to Exchange, 'tis a corrupt bargain, within the Statute, 31 *Eliz.* c. 6. and both Parties Forfeit double the Sum given.

IV. A Church may be void by Act of Law. As,

1. By *Simony*, as the Canonists call it, and as it is likewise Styl'd by Statute 1 *W. & M.* c. 16. that is, Giving or Promising any Money or Reward, directly or indirectly, for Holy Orders, or to get a Benefice. And,

1. If a Clerk do by any Simoniackal bargain, or gratuity, procure himself to be Ordain'd; any Benefice which he accepts within seven Years next following is void, and the Clerk Forfeits ten Pounds. Stat. 31 *Eliz.* c. 6.

But in this case, the Living is not void till after Induction; and the Bishop is to give Notice to the Patron, or else no Lapse accrues. *Watf.* c. 6. p. 31.

2. If any one that has a Vote in Electing to any place in any Church, College, Hall, &c. shall take any Reward, or Promise of Reward for their Voice, the Place is void; and they who have Power to dispose of the the Place, may Dispose of it, as if the Person before Elected were Dead. Stat. 13. *Eliz.* c. 6.

3. If a Clerk do give, or promise Money, or Reward to be presented to a Living, when it is actually Vacant at the time of such Gift or Promise made, he is for ever incapable of holding that Living by the said Statute, and

and by the Canon Law of any other ; and besides, he Forfeits two Years Profits of the the Living, according to the extended Value. And he who takes the Money, or Promise, forfeits the same with the Clerk ; and the Patron, tho' he knows nothing of the bargain, loses his Presentment for that turn to the Queen, *Watf. c. 5. p. 23.*

4. If a Father, or other Friend do give, or assure any Sum of Money for a Benefice for his Son, after the former Incumbent is Dead, or at the point of Death, both the Giver and Taker forfeit as in the former Case, and the Benefice for that turn shall be given by the Queen. But the Clerk, if he be not Conscious to the Crime, may be Presented *de novo*, by the Queen.

5. If Money, or Reward, be taken for granting Institution, Installation, or Induction, except lawful Fees ; the Party so offending, Forfeits two Years Value of the Benefice, and the Institution, &c. by this means gained, shall be null, and the Patron shall present *de novo* ; to which purpose, Notice shall be given to him by the Ordinary, or else no Lapse incurs.

6. If any Person do take any Reward, or assurance of Reward, for Resigning his Place in any Church, or College, the Party giving, Forfeits the double Value, and the Party taking it, shall be incapable of such Place ; and he, or they, to whom such Place appertains, may Dispose thereof, as if the other Person were actually Dead. No Dispensation



on can make a Simoniacal Presentation, Institution, &c. good, *ex post facto*.

A General Pardon takes off the Fines and Forfeitures; but the Church was not full by the Simoniacal Presentation, or Institution, and the Pardon does not fill the Church.

He who offers Money, tho' he be afterwards Presented *gratis*, is disabled to hold that Church; and that, tho' the Money be offer'd by a third Person, and not to the Patron, but to his Friend. See *Watsf.* p. 22, 23, 27.

Both the Simonist, and he that is Simoniacally promoted, having no Right to the Benefice, to which they were Presented, are accountable for all Profits received, to the Clerk, whom the Queen Presents. But the innocent Clerk, coming in betwixt the Simonist and the Queens, is not accountable, tho' liable to be Remov'd. See *Watsf.* c. 40. p. 316. No more is he that Forfeits his Living, by Neglecting within two Months to Read the Articles, &c. or that is wrongfully Collated by the Bishop.

He that comes in by *Simony*, is liable to pay First-fruits, Tenths, &c. and yet if he Sue for *Tythes*, the *Parishioners* may plead *Simony*; and this is a sufficient bar against his Right. *Ibid.*

He that only reads the Statute of 31 *Elix.* or the Oath given by the Bishop, and enjoin'd by the Canon Law, ever since the time of Archbishop *Langton*, 1222. would think it altogether as unlawful to purchase a Presentation to a Benefice before it be Vacant, as afterward;

terwards ; but 'tis a Practice allow'd of, to Buy a Presentation during the Life of the Incumbent, both by the Common, and the Canon Law ; but that the Clerk may be secure from all Penalties and Controversie, it is advisable, that he who purchases the next turn, make the Contract while the Incumbent is in no apparent danger of Death ; that he do not declare what Person he intends to Present, that the intended Clerk be not present at the Contract, however, that he be not named in the Deed, by which the power of Nomination is granted. *Watsf. c. 5. p. 22.* and if the Agreement be to pay the Money after the Church become Vacant, this is *Simony*, tho' the bargain were made before. *Ibid. p. 20.*

If Presentation to a Benefice be promised in consideration of Marriage, or of a Jointure settled on the Woman by the Clerk, or his Father, 'tis *Simony* ; but if the promise be made to the Clerk, under Hand and Seal, among other Articles of Marriage, and this Covenant be not in consideration of the former, nor depending thereupon, it shall not be judged *Simony*, without some particular Averment ; and a Bond for performance of such Covenant has been adjudged good. *Watsf. c. 5. p. 22.*

'Tis the prevailing Opinion, and has been adjudged, that a Bond given for performing Simoniackal Covenants, is good at Law, and that therefore the Money must be paid, if Presentation were made, tho' the Benefice be lost : But see Bishop *Stilling.* Bonds of Resignation, *pag. 12.*

How

How far Bonds given to oblige the new Incumbent to some Charitable Pension to the Wife, or Son of the Predecessor, are allowable in Law and Conscience; or whether a *Clergy-Man* can safely take the Oath of *Simeny*, who has given a Bond to Resign upon Demand, or at such a certain time; you may see by reading that most excellent Book just now Quoted.

The *Clergy-Man* that gives such Bonds, has been judged safe from the penalty of the Statute; but the Oath is not imposed by the Statute, but by the Antient Canon-Law, and ought therefore to be understood, or interpreted in the Sense which that Law puts upon it. And it is certain, that all Compacts, in order to the obtaining of a Living, are forbid by that Law: So that the Clerk cannot in Conscience bring himself under any obligation to do any thing, but what he were in Law, or Conscience, bound to do without such Obligation laid on him by the Patron, as suppose to Officiate Personally, Reside, &c.

And 'tis to be observed, that this Act, besides the penalties expressly inflicted by it, does likewise leave the Simoniackal *Clergy-Man*, or Transactors, to the Lash of the Spiritual Courts; and so it does the Patron too, tho' in one respect, it is more favourable to him than the Canon Law was: For by this last, the Patron lost his Advowson *in perpetuum*, by Selling the Presentation. See *Prov. L. 5. Tit. 3. Nulli liceat*; by the Statute, he only loses

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the next turn : But in another respect, the Statute is more severe than the Canon, which is, that it cannot be dispensed with ; whereas, both Patron and Clerk, with their Money, might purchase *Salve*, for any Sore of this sort, from the *Pope*.

By the 31 *Eliz.* tho' the Clerk that was Simoniacally presented, died possess'd of the Benefice so obtain'd ; and another Clerk were without any Simoniacal Agreement Instituted and Inducted into the same Living ; yet the King's Clerk upon discovery and proof of *Simony* committed upon the Preferment of the former Clerk, should remove the Innocent Clerk, and Defeat the Title of the Innocent Patron ; but now by the 1 *W. & M. Sess. c. 16.* 'tis provided that *after the Death of one Simoniacally promoted, his Simony shall not be alleged, or pleaded to the prejudice of any Patron Innocent of Simony, or his Clerk.* But if the same Patron Present the first Clerk corruptly, and then another fairly, after the Death of the former, this latter Clerk is removable ; because by the former *Simony*, the next turn belongs to the Queen ; but if that Patron be Dead, and his Heir present, the Clerk is safe.

2. If a Benefic'd *Clergy-Man* do Affirm, or Maintain any Foreign Power in *Preaching*, or Words, upon his first Conviction, all his Spiritual Promotions shall be void, 1 *Eliz. 1.*

3. He that has Maintain'd any Doctrine contrary to the 39 *Articles*, and being convicted before the Ordinary does persist therein

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or after Revocation thereof, shall affirm the same again, *it is lawful for the Ordinary to deprive him*, 13 Eliz. c. 12.

" 4. He that does not make his Declarations in the Church, according to the 14 Car. 2. c. 4. is deprived *ipso facto*. And so likewise is he, by the said Act, who does not read the 39 Articles, giving his Assent, and Consent.

Sir S. Degg, advises his Clerk that has omitted to read the Articles, or Liturgy in Form, to obtain the Queens Presentation, *ad Corroborandum*, and thereupon to perfect his former Neglects; or to procure Letters Patents of Confirmation, which may be pleaded in Bar of the Queens Title, pag. 58.

" 4. If Tenths be demanded at the Churches, Houses, or Stalls of Benefic'd, or Dignify'd Clergy-Men, any time after Christmas, by such as are charged with the Collection of them, and not paid upon Demand, or 40 Days after; and if the Bishop do certify the Default into the Exchequer; the Clergy-man making such Default, is *ipso facto* deprived; but of that Benefice only, from which the said Tenths were due, 26 Hen. 8. c. 3. 2, 3. Edw. 6. c. 20.

6. All Ecclesiastical Persons shall within three Months after they enter on their Benefices, take the Oath, commonly called the Abjuration Oath, or else their Place is void, 13 W. 3. cap. 6.

" 7. Six Days Absence of an Incumbent, Presented by the University, to the Liv-



vings of *Papists*, makes such Livings void.  
*1 W. & M. c. 26,*

8. Any Minister, that uses any other Form of Prayer, or Administring the Sacraments, than what is contain'd in the *Book of Common-Prayer*, or *refuses to use the said Forms*, or does deprave the *Book of Common-Prayer*, or any part of it, shall, upon his second Conviction by twelve Men, Forfeit whatever Spiritual Promotions he is Possessed of, and suffer six Months Imprisonment; and upon his third Conviction, he shall lose his Spiritual Promotions, and be Imprisoned during his Life, *1 Eliz. c. 2.*

And here it may be observ'd, that Voidance by Act of Parliament, need not be notify'd to the Patron, except the Act on which the Church is voided, do expressly require it, as the 13th. of *Eliz.* and the 14th. of *Car. 2.* do. But in other Cases, the Patron must take notice at his Peril, and Present within six Months. *Watf. c. 6. p. 34.*

V. Further, there are several Crimes for which a Man may be deprived of his Benefice by the Canon Law, by Sentence in the *Spiritual Court*.

1. *Manslaughter*, after the Clerk has been Convicted of it in a *Temporal Court*, is sufficient cause of Deprivation in the *Spiritual*; if the Necessity that the Clerk was under, in defence of himself, were not altogether unavoidable, or if by due Care, and Heedfulness, the Murder might have been prevented, or if the business he were engaged

in, and through occasion of which, the Murder was committed, were unlawful. See *Pro. L. 1. T. 4. v. homicidas. Const. Othob. Ad hec quoniam, Gloss. Watsf. c. 6. p. 35.*

2. *Adultery* is a Crime, for which *Clergy-Men* are deprivable by *Canon Law*; and for which some have been deprived since the Reformation. See *Instances, Stilling. Eccl. Cases. pag. 82.*

3. *Drunkenness* is another Crime, which makes Men liable to the same Censure, but not till after Admonition; there are Precedents of Deprivation for *Drunkenness* in the Reign of K. *James I. Stilling. Eccl. Cases. 78, 79.* and when application has been made to the Judges in *Westminster-Hall*, for a Prohibition, to stop the Bishops Proceeding in this case, it has been deny'd, 81.

4. *Perjury* is a just Cause of Deprivation, *Godol. cap. 27. Sect. 2.* if committed within an *Ecclesiastical Court*, or in any other, says *Watsf. c. 20. p. 140.* and so likewise is *Forgery*, *Sir S. Degg. p. 82.*

5. *Waste*, or enormous *Dilapidation* renders *Clergy-Men* liable to be deprived. *Godol. c. 27. Sect. 2.*

6. *Heresie*, or *Miscreancy*, is on all Hands agreed to be a Crime, that makes the *Clergy-Man* obnoxious to this high Censure.

7. The Judges have declared it lawful to deprive an Incumbent, for not Conforming to the *Canons. Stilling. Eccl. Cases. 373.*

8. *Illiterature*, or *Inability*, for the discharge of the sacred Function, is a Crime

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of the same Nature. *Godol. ubi supra. Wals.*  
c. 6. p. 35.

9. *Not wearing the Surplice*, has been adjudged a sufficient cause of Deprivation; no less a Man, than a Dean of *Christ-Church*, is said to have fallen under this Censure, upon this account in Queen *Elizabeth's* Reign.

10. *Incontinency*, is commonly said to be a Crime of the same Nature, in the Canon Law; but 'tis much more evident, that a Man was deprivable for being Married by the *Old Canon Law*, than that he was liable to this Punishment for *Fornication*. The words of *Lyndwood*, an unmarried Clergy-Man and Canonist, are very observable on this occasion; *A Clerk ought not to be deprived for simple Fornication, by the Canon favourably interpreted, tho' perhaps it may be otherwise by the rigour of the Canon.* The Constitution of *Otho* is to this effect: "That a Clergy-Man, " for *Fornication*, shall be Suspended, both " *ab officio & beneficio*, in case he do not dismiss " his *Concubine*, and make satisfaction for " his Crime; and that, if he meddle with " the *Benefice*, or Office, during Suspension, " he shall be deprived. *Licet. ad Prof. & Gloss.*

But by Stat. 31 Hen. 8. c. 14. the Clergy-Man that kept a *Concubine*, for the first Offence, was Deprived, and the second Offence was Felony. But this was Repealed the next Year, and another Act made, whereby for the first Offence, the Clerk Forfeited all his

his Personal Estate, and all the Profits of his Livings, but one: For the second Offence, all his Real and Personal Estate, Benefices, Promotions, &c. For the third Offence, the like Forfeiture, and perpetual Imprisonment.

11. If a *Clergy-Man* be Excommunicated for *Contumacy*, and remain so 40 Days, he shall be Deprived. *Godol. c. 27. Sect. 19.*

12. *Bastardy*, is likewise a Note of *Infamy*, for which a Clerk may be turn'd out of his Benefice; but here the Queen, or Archbishop's Dispensation saves him: And indeed, most of the foregoing occasions of Deprivation cease, in case the Queen think fit to Pardon the Delinquent. But no Pardon from the Queen can restore a Clerk to his Living, where an Act of Parliament has made it void, or where there is an Inability in the Person to discharge his Office. *Watf. c. 5, 6. p. 28. 36, 37.*

If a *Clergy-Man*, having Sentence of Deprivation pass'd upon him, by his immediate Ordinary, do Appeal to a Superior Court; the Sentence is by this means Suspended, and shall take no Effect, if it be not affirm'd by the Court, to which he has Appeal'd. *Godol. c. 27. Sect. 17.*

Some indeed, think it unreasonable, That Men should be turn'd out of their Free-hold by a Canon: But it ought to be consider'd, that the Canon Law, so far as it is receiv'd, is in effect, a part of the Common Law of the Nation, as being Founded upon Immemorial

Custom and Practice ; that Bishops and Ordinaries have been in possession of this Power, for many Ages past ; and indeed, as long as there have been Churches and Parishes in *England* ; that our Parliaments, nor Princes, did ever yet see any just Cause to Divest them of this Power ; but have on several occasions own'd, and confirm'd it. Thus, for Instance, the Act of 1 *Eliz.* c. 2. approves of those *Censures and Deprivations* formerly used by Bishops, and Persons having *Ecclesiastical Jurisdiction*, and declares that they *shall have full Power and Authority to Punish the same Crime*, which was Disobedience to the *Queens Ecclesiastical Laws*, for the time to come. There is a like Reserve in the Act against *Simony*, 31. *Eliz.* 6. *viz.* that *nothing in this Act contained, shall Restrain any Punishment inflicted by the Laws Ecclesiastical, for any Offence in this Act mentioned, but the same shall remain in Force, and be put in due Execution, as it might before the making of this Act.* Where the *Canons* are called *Ecclesiastical Laws* ; for there was before this, no Law against *Simony*, but what was contained in them, 'tis acknowledged, that they might be put in Execution before this Act ; and yet Deprivation was one Censure provided against *Simony* by those, and by those *Canons* Deprivation might be inflicted on the Clerk, not only for the Living corruptly obtain'd, but for all other Benefices and Promotions whatever ; and if it may still be inflicted, then all Deprivation by Canon is not unreasonable, if the Queen and Parliament may judge. There



There never was so much complaint of the Abuse of this Power of Deprivation, as during Archbishop *Laud's* time, who was Advanc'd to the See of Canterbury, Anno Dom. 1633. yet upon K. *Charles* his Restauration, all Ecclesiastical Jurisdiction was restored to the state that is was in by Law before 1639.

Archbishop *Laud*, was Executing this Authority upon Delinquent Clergy-Men, the five Years preceeding, 1639. And 'tis strange, that if the Parliament had thought these proceedings Illegal, they should look no further backward; especially in that very Act, where they set aside the Canons of 1640, and the High Commission Court, viz. 13 Car. 2. c. 12.

Lesser Degrees of Censure for smaller Neglects in Clergy-Men, are *Suspensio ab Officio*, and in some Cases, tho' very rarely, *Suspensio ab Officio, & Beneficio*. Before the Reformation, the Bishop for some little Omissions, was enjoin'd by his Metropolitan, to go without some part of his Habit, often mention'd in the *Provincials*.

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C H A P.

## C H A P. XII.

*Of Sequestration, and Commendam.*

**S**EQUESTRATION is an Authoritative Act of the Judge of any Court, whereby he commits the Custody of any Thing, (as for Instance, some valuable Chattel left by a De-funct) or Person, (as a Maid to whom two young Men lay claim, as precontracted to them. See *Lynd. l. 2. sect. 4. p. 135.*) to some faithful, and responsible hands; till it does appear to whom they do of right belong, or till the Judges Injunctions be executed.

If an Incumbent, having been admonish'd by his Ordinary to repair the Chancel, or Parsonage or Vicarage House, do neglect to do it, the Bishop may cause the Fruits, or Profits of the Living, or some part of them to be sequestred; that is, to be received by some trusty person, and apply'd by him to the making good the Repairs, he returning the over-plus, if any be, to the Incumbent. See *Const. Othob. de domib. Eccles.* Some have said, that the Impropiator's Tythes may be sequestred for the maintaining of the Chancel, if need be; and 'tis certain they might, while they were in the hands of the Monks, and there is no Law since made to exempt Lay Impropiators from the Authority of the Bishop in this respect. But see *Wats. c. 3*

p. 302. where it appears, that the Judges have have sometimes been of another Opinion. The common Way of Proceeding against Impropriators in case of such neglect, is the same as against the Churchwardens or Parishioners for not repairing the Church; viz. by Citation, Admonition, and, in case of contumacy, Excommunication: If the Impropriator do not live in the Diocese, then the Process is against the Tenant, or him that receives the Tythes. See *Parson's Counsell.* p. 142.

Sometimes a Benefice is Sequestred to pay for the Service of the Cure, or by virtue of a Writ from the Queen in her Temporal Courts to the Bishop, to pay the Debts of the Incumbent. *Godolph. Append. to Abridg. sect. 40.*

But the most common occasion of Sequestration, is the Vacancy of a Benefice, during which time, the House and Glebe are said to be in *Abeysance*; and the mean Profits are to be received by the Ordinary, or his Agent; which is usually the Churchwarden, authorized by Seal of Court, "To receive the Profits" (if any be) during the Vacancy, to provide "for the Service of the Cure; and if the Fruits of such Benefice received be not sufficient to pay for the Service of the Cure, the next Incumbent shall do it within 14 Days after his Induction. Stat. 28 H. 8. c. 11. and the Ecclesiastical Court is to see that their Sequester be not damag'd.

In

In old time, if the Incumbent liv'd to Lady-day, the Tythes of the following Summer and Harveſt were his, ſo that he might diſpoſe of them by Will, or otherwiſe. *Prov. L. 1. c. 3. p. 23, 24.* And then, and afterwards eſpecially they were in many places by cuſtom levy'd by the Ordinary for his own uſe, till *Stat. 28 H. 8. c. 11.* gave all Profits, ariſing during Vacancy to the Preſentee, toward payment of the Firſt-fruits; and any Ordinary hindering him to have the Profits, forfeits treble Damages; But the Ordinary has ſtill power left by that Statute to Sequeſter the Tythes; and 'tis expreſſy provided, that he ſhall be allow'd the charges of the Cure, and inning of the Tythes.

And by the ſame Statute, the Succeſſor ſhall upon a Month's Warning have the Parſonage-Houſe, and the Glebe, not ſown: But Grain ſown by the deceaſed Incumbent on the Glebe-Land, is at the diſpoſal of him who ſow'd it; but it ſhall pay Tythes to the new Incumbent, if it were not cut before the Death of the former Incumbent. See *Watſ. c. 47. p. 403.* If the Benefice become void by Reſignation, or Deprivation, there are no Rules whereby to decide the Rights of Predeceſſor and Succeſſor, but what are drawn from the aforeſaid Statute: And it is, it ſeems, allow'd to be Law, that in ſuch caſes the new Incumbent ſhall have Tythes of his Predeceſſor's Corn, &c. formerly ſown; if it be not ſever'd from the ground before he vacated the Living. *Watſ. c. 49. p. 320.*

Some

Sometimes a Benefice is kept under Sequestration for many Years together, or wholly; namely, when 'tis of so small Value, that no Clergy-Man fit to serve the Cure will be at the charge of taking it by Institution; in which case, the Sequestration is committed sometimes to the Curate only, sometimes to the Curate and Churchwarden jointly.

Sequestrators cannot maintain an Action for Tythes in their own Name at Common Law, nor in any one of the Queen's Temporal Courts. *Quere*, Whether Suit may be maintained in those Courts in the Name of the Ordinary? If it may not, the Custody of such Churches which the Law has given to the Ordinary during Vacancy, will signify very little; and the Maintenance of those Clergy-Men, who serve those poor Churches, is very precarious; they can have no Remedy but in the Spiritual Court, or by Application to the Justices of Peace: And if an obstinate, or wealthy Parishioner think fit to try the Sequestrator's Right at Common Law, the Clergy-Man has no Fence against him: And besides, such Sequestrator is accountable to any hungry vagabond, *Scot*, that can procure the Broad-Seal, and make himself Legal Incumbent. For most of these little Benefices are by long Vacancy laps'd to the Crown. Nor do I see any Remedy in this Case, but an Augmentation of the Value of them, which can scarce be hoped for in most places of this sort; or else the Uniting them to some  
neigh.



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neighbouring Churches: And if the Bishops have not power to do this, (as 'tis evident they have not in some cases) 'twere much to be wish'd they might be enabled to do so necessary a Work.

It was, before the Reformation, common for the Ordinary to grant Sequestration of a Living (especially if in his own Gift, or laps'd to him) for six Month's time, and such Sequestration was called *Commenda semestris*; and this was the only *Commendam* that the Canon Law did approve of, tho' *Commendams* for a longer time, or even for Life, were all along used. See *Constitut. Otho. Miserabilis. Prov. L. 3. T. 3. de Prabend. Gloss. in v. Commendam.*

A Bishop only is now capable of holding a Benefice, or inferior Dignity by this Title of *Commendam*, by virtue of a Licence from the Archbishop of Canterbury, or the Queen in Chancery; and the Church, or Dignity is thereby full, till the Bishop die, or be translated to another Bishoprick: And in such case the Lawful Patron, not the Queen, shall present to the Benefice voided by the Death or Translation of the Bishop. *Watf. cap. 9. pag. 50.* Nor can a Bishop hold a Benefice *in Commendam*, without the Patron's consent. *Watf. c. 18. p. 141.*

When a Beneficed Clergy-Man is created Bishop, he may retain whatever Benefices he had before his Dispensation: But if he had none,

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none, or resign what he had, and take one *de novo*, this is held by *Commendam*: And 'tis commonly said that a Bishop can hold but one Benefice by this Title; yet see *Watf. ubi supra*.

Some have said, that a Bishop cannot hold a Benefice within his own Diocese, because he cannot Visit himself; but see *Godolph.* to the contrary, c. 21. sect. 9. that it may be done by Dispensation.

In case of *Commendam*, no Institution is necessary; and a Bishop may be Licensed to hold a Living in his own Gift, by these words *Autoritate suâ propriâ capere, & apprehendere absque Institutione, Collatione, &c.*

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## **CHAP.**

C H A P. XIII.

*Of First-Fruits, and Dilapidations.*

**FIRST-FRUIT**S were an Art of *Simony*, invented by the Pope, who bestow'd Benefices in *England* on Foreigners by way of *Provision* and *Reservation*; on condition that the First Year's Profits were given to him for the Regaining of the *Holy Land*, or some such goodly pretence; next, he prevail'd on Spiritual Patrons to oblige their Clerks to pay them, and at last by degrees he claim'd, and extorted them from those who were presented by the King, or his Temporal Subjects.

By *Stat. 26 of H. 8.* and many other subsequent Acts, both the First-Fruits and Tenth's are taken from the Pope, and vested in the Crown. And by that Act, *He who enters upon any Spiritual Living, before he pay or compound for them, upon Conviction, forfeits the double Value thereof.* To avoid such Penalty, the Clerk either before Induction, or soon after (for the Officers will squeeze Money out of him for any small delay) must go to the First-Fruits-Office, or send two Friends of the City of *London*, *Jans of Court*, or parts adjacent; if he go himself, one such Friend is sufficient, and enter into Bond, to pay the First-Fruits of his Benefice within two Years next coming, at four equal half-yearly Payments:

ments: But one tenth part of the whole Sum mention'd in the Queen's Books, is to be deducted: For that is to be paid distinctly, by itself, the first Year, as well as all the following to the Collector of Tenths.

By *Stat. 1 El. c. 4* Vicarages that are not above ten Pounds yearly, and Rectories not above ten Marks, are excused from paying First-Fruits; he that takes such a Living, has nothing to do with this Office.

Four Bonds were formerly given for the four several Payments: Nay from the Reign K. C. II. to this present, a fifth Bond was required, whereby the Clerk was obliged to pay according to the full, extended Value of the Benefice; in case it should appear that it was not valued to the height in the King's Books: And yet the Statute of 26 Hen. 8. mentions but one Bond, for which no more was to be paid than 8 *d.* and 4 *d.* for each Acquittance. But I never heard of any Clergy-Man that could persuade these Officers, that this part of the Statute was good Law.

"By that pious *Stat. 2, & 3*, of Her present Majesty, it is provided, that but one Bond only shall be given, and the present Rates of all Benefices according to the Queen's Books are declared to be unalterable.

"By *Stat. 1 El. 4.* in case the Clergy-Man that has given Bond for First-Fruits die, or be legally outed, before the several Payments become due, there is a remittance, or mitigation of the future Payments; but some Clergy-Men, and their Executors have not-

notwithstanding been obliged to pay the full of their remaining Bonds, and could find no Remedy, but what was worse than the Disease.

The Successor is chargeable with Arrears of *Tenths* due from his Predecessor, and therefore is empower'd, " by 27 H. 8. 8. in such case to distrain his Predecessor's Goods " being upon the Benefice; and has likewise " a good Action against him, or his Executors at Law.

But for Dilapidations the Remedy is not so easy, the Successor can only sue the Predecessor, or his Executors in the Spiritual Court, (in which case no Prohibition lies) or at Common Law by an Action of the Case. *Watf. c. 39. p. 311.* All Debts shall be paid before Dilapidations, Legacies shall not. *Parson's Counsellor, p. 75.*

" If the deceased Predecessor make any " Conveyance of his Goods, to deprive his " Successor of Remedy in case of Dilapidations, the Spiritual Court may proceed " against the Grantee; as it might have done " against the Predecessor's Executors, or Administrators, by 13 Eliz. c. 10. But memorandum, that by this Act no Clergy-Man can sue his Predecessors or his Executors, but only for so much of the Dilapidations as hath happen'd by his Fact, or Default. Therefore all Incumbents, when upon their Induction they find the House to be ruinous, and no Assess, may do well to have the Reparations survey'd by able and creditable Workmen; and to consult Learned Counsel, how their Reports and Ar-



Attestations may be made so authentic; that they nor their Executors may not be forced to pay for the Defects of others.

By the *Constitution* of *Edmund* Archbishop of *Canterbury*, Dilapidations are made a Debt, and the Predecessor is to make good all Defects in the House, and Chancel, but only *de Bonis Ecclesiasticis*, out of what he has got by the Church.

While the Dilapidator remains Incumbent, the Ordinary has effectual Remedy against him: For he can sequester his Benefice for this purpose, but if he die poor, or leave his Estate among Artificial People, 'twill be hard, if not impossible for the Successor, to do the Church, and himself Justice.

"What the Incumbent receives for Dilapidations of his Predecessor, must be faithfully laid out in two Years time, upon the House; or Chancel, under Penalty of of double the Sum to the Queen. 14 *Eliab.* 11.

*Dr. Watson* is of Opinion, that no Curate, tho' he have a Lease of the Benefice, and by that be bound to repair the House, is liable to be su'd for Dilapidations. C. 39. p. 311.

## C H A P. XIV.

## Of R E S I D E N C E.

“ **H**E that is wilfully Absent from his Benefice for one Month together, or two Months in the whole Year, tho’ at different times, Forfeits ten Pounds, the one half to the Crown, the other to him that will Sue for it. Stat. 21 Hen. 8. c. 13.

“ But Chaplains to the Queen, or other great Persons mentioned, Chap. 10. are excused from Residence, whilst they attend those who retain them, by Stat. 21 Hen. 8. and by Stat. 25 Hen. 8. all the twelve Judges, and the Attorney, and Solicitor-General may qualifie one Chaplain, and excuse him from Residence, and by 33 Hen. 8. c. 28. the Chancellor of the Duchy of Lancaster, and Groom of the Stole, have the same privilege; but none of the Persons mention’d in these two last Acts can qualify a Chaplain to hold a *Plurality*.

And he who being qualify’d by 21 Hen. 8. to hold two Benefices, Resides upon one of them, is held excus’d from what is an Impossibility; that is, to reside upon the other, if not by the Words of the Act, yet by equitable construction. *Watf.* cap. 37. pag. 284.

“ Also he that has a Dignity, and Benefice, by residing upon one, is excus’d from Residence on the other, by the Words of the Statute; but

but then a Gospeller, or Vicar-Choral, is not reputed to be free from the penalties of this Statute, if he reside in the Cathedral, and be absent from his Parish Church. *Watf. Ibid.*

284.

He that is without Fraud, under Confinement for Debt, or removes for his Health by the Advice of his Physicians, has been adjudged free from the penalties of this Act. *Godol. c. 28. Sect. 9.*

" He that is employ'd in the Queens Service, 9 *Edw. 2.* or is under an Injunction from the Lord Chancellor to attend a Suit, 21 *Hen. 8.* is not punishable for Non-Residence.

" Heads, and Professors in the University, and *Clergy-Men* under 40 Years of Age, Residing there, and hearing the Lectures, and doing Exercise in Person, are Exempt from the penalties of 21 *Hen. 8.* See 28 *Hen. 8.*

It has been adjudged, that Residence upon a Prebend, saves a Man from Residence on his Cures, if he have any, *cap. 37. pag. 284.*

Yet he who has two Benefices, and Resides for the most part upon one, is obliged by the words of his Dispensation to *Reside 60 Days in the Year on that Benefice, from which he is absent for the most part, and Preach 13 Sermons, &c.* which is what the Canon Law requires of him, says *Watf. Ibid. 285.*

" He that is absent from his Benefice with Cure, above 80 Days in the Year *Vacates*, any Lease, or other Bond, or Covenant made, whereby

whereby he lets out his Benefice, or any part of it; and Forfeits a Years Profit of his Benefice; and therefore the Bishop is in this Case bound to Sequester the Living, and distribute the Profits among the Poor of the Parish; if not, the Parishioners may withhold their Tythes, 13 Eliz. 20. 18 Eliz. 11.

But it has been adjudged, that he who upon all occasions resorts to his Parish, and serves the Cure thereof duly, tho' he does not dwell in the same Parish, saves himself from the penalties of these last Acts of *Eliz. Watsf. c. 43. p. 360.*

But nothing is sufficient Residence by the 21 *Hen. 8.* but dwelling in the Parsonage, or Vicarage House; if there be no House, then he is thought excused from such Residence. *Godol. c. 28. Sect. 9.*

Whether the Non-resistance by the Statute of *Eliz.* be to be computed all at one time, or at several times in the same Year, has been variously judged. See *Watsf. c. 43. p. 360.*

These Statutes of *Eliz.* as to the penalty of one Years Profit, affect him, who being not qualify'd for Non-residence, by the Act *Hen. 8.* has one Benefice only, and is not Resident upon it; or having two, is Resident on neither. For he who has two, being legally qualify'd, is by these Acts permitted to let one of them, viz. that one, in which he shall not be most ordinarily Resident, to his Curate only.

### L E A S E.

In making a Lease to the Curate, or any other Person, let the Incumbent take care to have

have these words, or such like inserted, after having mentioned the term of Years, *viz.* if he do so long live, and shall so long continue Parson, and Vicar. For if such Lease be made for Term of Years, without such Condition, the Lessee may recover Damages for not enjoining his Term, in case of Death, or Resignation, before that Term expire.

For here it is to be observ'd, that a *Parson*, or *Vicar*, can make no Lease to bind his Successor, without consent of Patron, and Ordinary,

And even by consent of them, he can only Lease such parts of his Benefice as have most commonly been letten in times past, by Stat. 32 Hen. 8. c. 28.

And as to Residence, and all other Matters, the Vicar is by *Statute Law*, upon the same Foot with the Parson: The Statute of *Pluralities*, does no more make two Vicarages incompatible, than two *Parsonages*; and the Statutes that require Residence, make no difference betwixt the one and the other; but both *Vicar* and *Parson* are subject to the same penalties, if they be wilfully Non-resident; and that which excuses the *Parson* from Non-residence, excuses the *Vicar* too.

The Bishop, by his Dispensation, can save neither *Vicar* nor *Parson*, from the penalties of the Statute Law, in point of Residence; and he can by the same Dispensation save both of them equally from the Censures of the *Spiritual Court*.

There was indeed, an old saying, *Vicarius non habet Vicarium*; the Vicar has no Vicar,  
or



or Substitute, which yet never was exactly observed, as *Lyndwood* owns, *L. 1. Tit. Gloss. Eorum vices.* However, by long Practice, 'tis now as allowable for a Vicar to have a Curate as a Rector.

In one thing, indeed, there is a difference, which is, that the Vicar is sworn to Residence, the Rector is not; but this Oath is with a Condition, *viz. nisi aliter dispensatum fuerit*; so that if the Vicar be dispensed with, he is in this respect too, upon the Level with the Parson.

A Man is dispensed with, as to the Temporal Courts, by Statute Law; as to the Spiritual Courts, either by the Statute Law, or by the Bishops Faculty under Seal; and as to the Conscience in relation to the Oath, by the Bishops verbal License, or his Faculty under Seal: But here it is to be observed, that a Bishop can only dispense for his own Lifetime, and his Dispensation dies with him; but that Vicar, who is in actual attendance on the great Person mentioned, *Chap. 10.* and in this Chapter, has a right to be dispensed with, as to point of Residence; and he who is legally settled in two Benefices, has a Right to be dispensed with as to one of them, and his Metropolitans Dispensation to hold these two Benefices, is at least a virtual Dispensation to be Non-resident in one of them, tho' they be both Vicarages. Formerly, indeed, Archbishops did scarce ever dispense with *Clergy-Men* to hold two Vicarages, but of late Years, 'tis sometimes allow'd of, with good Reason.

C H A P. XV.

*Of the Privileges, and Hardships of the*  
C L E R G Y.

**H**E that beats a *Clergy-Man*, *incidit in Canonem*; that is, he may be Excommunicated, and oblig'd to do Penance, by the Ordinary. See *Parf. Counf.* 130.

A Clerk is exempt from all *Secular Burdens*, *Ibid.* but not from new Charges, by Statute Law, but only those which are impos'd at Common Law. *Ibid.* p. 224.

No *Clergy-Man* is bound to serve any Temporal Office, as Constable, Overseer of the Poor, &c. and this is *the Privilege* of Apothecaries, as well as of those in Holy Orders.

The Bodies of *Clergy-Men* cannot be Arrested upon any Statute Merchant, or Statute Staple.

It is said likewise, that their Goods shall pay no Toll in Fairs or Markets, that they are not bound to appear at Court-Leets, or to serve the Office of Beadle, Rieve, &c. nor to follow Hue and Cries, nor to Repair Bridges, or High-ways, to keep Watch or Ward, or to contribute to the Building of Gaols, or to make good Robberies committed in any Hundred, *Godol. Abr. c. 17. vers. fin. Parson's Counsellor*, p. 120.

And these, and many more, undoubtedly were the Ancient Privileges of the *Clergy*; but

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whatever the Law may be, it is certain the Practice is very often contrary. For Ministers are terrify'd, and forc'd to submit to these Burdens, rather than be at the Expence of a Suit at Law, where the Controversie is at last to be decided by twelve Lay-Men, whereof sometimes half are *Dissenters*, and profess'd Adversaries to Men in Holy Orders. Disputed Rights are Snares, rather than real Privileges; and it is much to be desired, that the Authority of the Nation would declare, whether *Clergy-Men* have any Exemptions and Immunities, or whether they are all worn out with Age. For 'tis as good in effect to have none, as not to have them clear, and without controversie.

Some reckon it among the Privileges of the *Clergy*, that they are not bound to serve in Juries; and 'tis certainly no very desirable thing, for *Clergy-Men* to be obliged to attend Temporal Courts, at the Summons of every Bailiff. But on the other side, I am so far from thinking, that the being excluded wholly from Juries is a Privilege, that I think it one great instance of the Hardships of the *Clergy*, that none of their Order are ever admitted to be Jury-Men in Temporal Courts.

When there is a Controversie concerning the Right of presenting to a vacant Church, it has been, and still is in some Cases, the Practice to have the Right Try'd by a Jury, whereof one half of the *Clergy*, the other of the *Laitie*. Why should not all Matters, wherein the Churches Rights are concern'd, be Try'd in

the same manner? For I cannot see that it is more unreasonable, that Persons, who may be supposed too much to favour the Rights of the Church, should be admitted to give their Verdict in such Causes; than that those, who by Principle, or Interest, are Prejudic'd the other way, should be Empannell'd, as they often are on such occasions. If *Clergy-Men* are part of the Commonalty of the Nation, why are they alone deny'd the Right of other Commoners and Freeholders? If they are not Commoners, but a distinct Order of Men, why should not they have their Rights Try'd, as others have, by some of their own Rank and Condition? And this is now the more Necessary, since all manner of Causes are, first or last, wholly or in part, generally brought before a Jury: The *Clergy* had no reason to desire to be Jury-Men, while they had Recrefs in the *Ecclesiastical Courts*.

By the same Figure, that this last has been call'd a *Privilege*, there is another may be call'd so too; I mean the *Ease* given to the *Clergy*, by Statute 21 *Hen. 8. c. 13.* by Prohibiting them, not only to take to Farm any more lands than are necessary for the Maintenance of their own Household, but to take any Annual Rents, or Advantage, or Profit, by occasion of any Lease, or Farm, by any manner of means, under very severe penalties indeed; nay, the *Clergy* is not permitted to Occupy by himself, or by other, any Parsonage, not so much as the appropriated Tythes of his own Church. The *Clergy* of Ancient times, did enjoy very many

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Immunities, and some of them very unreasonable ones : But that High-Tide of *Privileges* is now sunk to the lowest Ebb, even below the *common Liberties* of *English* Subjects.

An Act was extorted from K. Charles the Martyr, *Anno Dom. 1641. To disable all Persons in Holy Orders, to Exercise any Temporal Jurisdiction, or Authority* ; but this was Repealed, by 13 Car. 2. c. 2.

'Tis said by some, that a Clerk in Holy Orders, if he be found guilty of a Crime, for which *the Clergy* is allow'd, he shall not be Burnt in the Hand, as a Lay-Man shall, and that a Lay-Man can have his *Clergy* but once, but a Clerk *ad Infinitum*. And these might be thought *Privileges* by a vitious *Popish Clergy* ; but are rather a Scandal to the Regular *Clergy* of the Reformed Church of *England* ; who, God be thanked, neither want, nor crave any such *Privileges* as these. If a Convicted Clerk have still a Right to this Favour, which I much question ; yet one may dare affirm, that the whole Body of the *Clergy* will readily Renounce this Skeleton of an old *Popish* Immunity, for any real *Privilege*, that shall become Men of their Profession.



C H A P. XVI.

*Of Synods, Convocations, and other Publick and Authoritative Assemblies of the Clergy.*

**G**eneral, or Oecumenical Councils, or Synods, are Assemblies of Bishops from all parts of the Church, to determine some weighty Controversies of Faith, or Discipline. These were first called by the Emperours, afterwards by Christian Princes, till in the latter Ages, the Pope Usurped to himself the greatest share in the calling of them, and by his Legates Presided in them, when called. The first General Council, was that of Nice, Anno Dom. 325, the second at Constantinople, 381, the third at Ephesus, 431, the fourth at Chalcedon, 451.

A National Synod, consists of all the Archbishops, and Bishops within one Nation, assembled together to determine any point of Doctrine, or Discipline. The first of this sort, which we read of here in England, was that of Herudford (now Hartford) Anno Dom. 673, the last was that held by Card. Pook, 1555.

Provincial Synods, consist of the Metropolitan, and the Bishops subject to him, which by the Canons of the Council of Nice, were to Meet twice in the Year.

Diocesan Synods, are the Assemblies of the Bishop and his Presbyters, to enforce, and put

in Execution Canons made by general Councils, or National and Provincial Synods, and to Consult, and Agree upon Rules of Discipline for themselves especially. See *Prov. L. 1. T. 2. L. 2. T. 7. Gloss.* and these were frequently held, while the Bishop and Clergy liv'd together in a Community, and were not wholly laid aside, till by the Act of *Submission* (25 *Hen. 8. c. 12.*) it was made unlawful for any Synod to meet, but by Royal Authority.

And since the great Divisions of *Christendom*, especially in the *Western Church*, a free *Universal Synod* is scarce to be hoped for.

Tho' National Synods are laid aside, yet upon any great Emergency, the Synods of our two Provinces of *Canterbury* and *York*, do act by mutual Correspondence, and Joint Consent, or by having Commissioners from the Province of *York* present in that of *Canterbury*.

And as often as a new Parliament is called, which is now at farthest once in three Years; so often the Archbishops of the two Provinces, have each of them a Writ from the Crown to call a Provincial Synod; the first to meet at *London*, the other at *York*; from the Year 1661. to this time, neither Synod has pass'd any Synodical Act; and from that time till 1700, for the most part, they were only called, and very rarely did so much as come together. But in that Year, his Grace of *Canterbury* took a great Step toward Restoring the Ancient Use of Convocations: For then and ever since, at the Meeting of the Parliament, the Convocation

cation of the Clergy, has likewise been Solemnly open'd, and the Lower-Clergy have been permitted to form themselves into a House, and to chuse their *Prolocutor*; nor have they been finally dismiss'd so soon as that Ceremony was over, but *continued* from time to time, till the Parliament has Broke up, or been Dissolved. And now it seems to be granted on all Hands, that "They are of Right to be Assembled concurrently with Parliaments, and may come to many Preparatory Resolutions without a Royal License, as the good Bishop of St. *Asaph* expresses it. See *Pres. State of Convoc.*

It is the peculiar Privilege of *English Presbyters*, that they have a Right to Sit in Provincial Synods, and are allow'd, in all conclusive Acts, to have a *Negative* on the Bishops: And 'tis the more reasonable they should have this Negative now, since *Diocesan Synods*, in which alone they were of old allow'd to Vote, are wholly disused in *England*.

This Assembly has Power to correct and depose Bishops, to Examine and Censure Heretical Books and Persons, and (with Royal Leave) to Enact and Publish Canons, to Alter and Reform the *Liturgy*, and to do whatever is necessary to support Religion, that can be done by a spiritual Authority.

There has been an unhappy Difference between the Upper and Lower Houses of Convocation, in the Province of *Canterbury*, which is not yet Determined; not concerning any point of Faith, Doctrine, Worship, or Religion,

ligion, but *whether the Convocation can Form a Canon without License from the Crown*; it is Agreed on all Hands, and the Act expressly says, that *they shall not Enact, or put in use any Canon without the Queens consent.*

There are likewise several other particulars which are, or lately were Debated by the two Houses, *viz.* whether the Archbishop by his Schedule does absolutely *continue*, that is Adjourn the *Lower House* as well as the *Upper*. The whole *Lower House* do own, that they are bound to Meet on the Day assigned in the Schedule; but the Majority do claim a Power of holding intermediate Sessions, before that Day come, if the Continuation be to a remote time; but the Majority of the Bishops say, that the *Lower House* have a right to hold these intermediate Sessions, without the Leave, or Appointment of the *Upper House*.

Whether the *Lower House* have Power to give Leave of Absence to their own Members, without the Archbishop's Consent?

Whether a Deputy *Prolocutor* can be Substituted, without the Archbishop's Consent first had?

Whether the *Lower House* can send a Message to the *Upper*, by any but the *Prolocutor* only?

Whether the *Lower House*, of it self, can admit, or deny Proxies from absent Members?

Whether the *Lower House* be obliged to chuse Committees, or enter on Business at the Appointment of the *Upper*? Or whether the

*Lower*

*ower House* are wholly at their own discretion in these Matters ?

Whether the *Lower House* can enquire into Elections and Returns of Members to Serve in their own House without an Order from the Archbishop ?

It has likewise been disputed, whether Elections of Proctors for the Chapters, and Diocelan Clergy, should be made by Virtue of the *Mandate* directed from the Archbishop to the Bishop of *London*, by him to the Bishop of every Diocese, or by Virtue of the *Premunientes*.

For at the same time, that there is a Writ from the Queen sent to the Archbishop to call a *Convocation*; Writs are likewise sent to every single Bishop to come to Parliament, *Premunientes*, &c. Warning him to bring with him the Deans and Archdeacons within his Diocese, one Proctor for each Chapter, and two for the Clergy of his Diocese. The *Convocation* is appointed to Meet at *St. Paul's*, the Parliament at *Westminster*, and formerly, a Day or two before the *Convocation*. Some are very positive that the Election ought to be made by Virtue of the *Premunientes* Clause, and that every Bishop should give his *Mandate* to the Archdeacons and Deans, to proceed in their Elections, by Authority thereof; but the generality have and do proceed in Obedience to a *Mandate*, sent from the Archbishop to the Bishop of *London*, Dean of the Province, to the rest of the Bishops, and by them to their Deans and Chapters, and Archdeacons, to chuse Pro-



ctors to appear at *Paul's in Convocation*. Before the Reformation, sometimes Elections, and Returns were made on both Writs, either by chusing the same Persons for both purposes, or on some occasions, different Persons. However this is agreed, that Proctors chose on either Writ, may and do serve the ends of both.

And whereas by Stat. 8 Hen. 6. c. 1. it is provided, that *the Clergy called to Convocation by the Queens Writ, together with their Servants and Families, shall fully use and enjoy such Liberty, or Defence, in coming, tarrying, and returning, as the great Men, or Commonalty of the Realm do, or ought to enjoy*; this Act has always been so understood, That Proctors, chose by the Provincial Writ, have been as safe from Arrests, as if they had been chosen by Virtue of the *Premunientes*.

The Reason why the Clergy were thus doubly called was, to secure their Obedience, and the King's Authority. The prevailing Opinion among the Clergy, then was, that they ought not to obey a Summons to *Convocation* from a Secular Person, tho' the King himself; therefore the Archbishop was by the King, obliged to Summon them, that they might seem to come by Virtue of their Canonical Obedience, and that the Archbishop might not be deprived of his Right of calling them; and on the other side, the King was willing to assert his own Power, of Commanding them to Appear, and therefore called them again by his *Premunientes*, and perhaps some might

might be terrify'd into a Compliance for fear of the King's Displeasure, who otherwise might have proved Refractory.

This is certain, the Clergy were drawn to Parliament against their own inclinations, especially, because the main end the King had in bringing them thither, was, not to give their Votes in making Laws, or Matters of Civil Government, but to Consent to the Granting Subsidies, and the only Advantage they had in coming, was to Represent their Grievances, which sometimes they got Redress'd.

Tho' the Lower Clergy were never let into a share of the Legislature in Parliament, but only had Conferences Occasionally with the Temporal Commoners, about adjusting and proportioning their Subsidies; yet they were by degrees received into the Provincial Synod, which before consisted only of Bishops and Abbots, and were permitted to give their Votes in all things that concern'd the Doctrine, Discipline, and Government of the Church, and have been for near 300 Years an Essential part of the *Convocation*. At first, they Sat in one Room with the Lords, and when any Affair was in Agitation, which did particularly concern them, they retir'd into some place by themselves, and Reported their Resolution to the Lords, by one or more Eminent Members: But Dr. Kennet himself does allow, that by the beginning of the 15th. Century, they began to be a distinct House, and to have a settled *Prolocutor* regularly chosen at the

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the beginning of *Convocation*: The first of whom, (says he) was the famous *Lyndwood*.

The first occasion of calling the Lower Clergy to *Convocation*, now ceases. For whereas to the Year 1663. the Clergy, for their Church, Preferments, were Sess'd by themselves only in *Convocation*, and their Grant down to *Hen. VIII's* Reign, was confirm'd only by Royal Assent; but since that time, by the Authority of the two Houses of Parliament, for the most part: Yet now, and ever since 1663, they have dropt the Ancient Right of Taxing themselves, and have had Taxes laid on them by Parliament, as all other *English* Subjects. In the first Act, whereby the Clergy were Taxed by Parliament, *Anno Dom. 1664.* there is an express *Salvo* for the Rights of the Clergy; from whence many do infer, that they are still at liberty to Reassume this Ancient Practice; but if they should do so, whether it will prove an Ease, or a Grievance, a Privilege, or a Hardship; I will not pretend to determine. Since they have been Taxed by Parliament, they have been allow'd to Vote in chusing Knights of the Shire, as other Freeholders, which in former times they did not.

Only Parsons, Vicars, and perpetual Curates, are capable of giving their Votes in chusing *Proctors* for the Diocesan Clergy.

Besides the Assemblies already mentioned, in former times, the Archdeacons had their *Capitula*, or *Chapters*, to which the Clergy within their Jurisdiction were called; not to make Canons, or Orders, but to Communi-  
cate

cate such Directions to the Clergy, as the Bishop thought proper, to Consult of Church Matters, and to Examine and Instruct the Clergy, *Pro. L. i. T. 10.*

In former Ages, the Rural-Deans did likewise hold their *Chapters* four times a Year at least. See *Lynd. in Gloss. on Tit. Quia Incontinentia.*

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## C H A P. XVII.

### *Of Visitations, and Procurations.*

**B**Efore the Conquest, it does not appear, that there were any Visitors but the Bishops, who were obliged *Annually*, to go about their Dioceses, to enquire after and correct Miscarriages: And this was less difficult, when the Parish-Churches were not so Numerous as afterwards. See Bishop *Stillings.* *Ecl. Cases.* p. 145.

The *Norman* Bishops let their Archdeacons into a considerable share of that Business, which before was thought peculiar to themselves, and the *Chore-episcopi*, (which last Officers are now universally laid aside;) and the Visitation of every particular Church being a Business that requir'd much time, and Travelling, this was chiefly left to the Archdeacon.

The Bishops did indeed, long after this, Personally Visit Monasteries, Collegiate, and other

other Churches within their Jurisdiction, that were capable of receiving their Retinue, in which there was not less than twenty or thirty Horses and Men; but as for the lesser, and more remote Parish-Churches, they visited them only (as they do now) by summoning their Incumbents, and other Clergy-Men, and *Credible Persons* out of every Parish, to some convenient place, at a reasonable distance from their Home: And of these *Credible Persons* Enquiry was made upon Oath concerning the State of the Church, Parsonage-House, &c. *Lyndwood, in cap. Statuimus. v. Viros fide dignos.*

And so generous were the *English* Bishops, in the time of *Acton* the Glossator, in the 13th Century, that they demanded no Procurations from their Clergy, when they visited them in this manner; tho' some Lawyers, it should seem, were of Opinion that they were due. See *Const. Othob. Naturalis, in Gloss.*

There was the less occasion for Bishops to visit every single Church in Person, where the Archdeacons were obliged to do it *once in three Years, and might visit every Year, and oftener if there were a necessity.* *Pro. L. T. 10. Gloss. in v. Visitatione.* A most pious, and excellent Discipline; which if it had been kept up, Churches, and Parsonage-Houses had been in much better condition, than now they are in many places.

And there was no great danger of their being too frequent in their Visits, since all the Advantage they receiv'd by it, was, that they them-



themselves, with five, six, or at most seven Horses and Men, were modestly entertain'd by the Incumbent of the visited Church: The Entertainment was called a *Procuracion*: Or if the Incumbent thought fit, he gave 7 s. 6 d. in lieu of the Entertainment; viz. 1 s. 6 d. to the Archdeacon himself, 1 s. to each of the other six; and if the Archdeacon visited more than one Church in the same Day, he could receive no more than 7 s. 6 d. of all the Incumbents, whose Churches were that Day visited. See the excellent *Constitut.* of Archbishop Stratford, *Prov. L. 3. Tit. 22.*

Farther, there were several Canons made, that "no *Procuracion* should be paid to the Archdeacon, if he did not Visit in Person; "that if he sent his Official, nothing should "be given but an Entertainment, or a moderate Compensation for it. And Archbishop Langton, tho' he had an own Brother for his Archdeacon, yet made an excellent *Constitution* for the keeping up this *Personal Visitation*, ending thus: *Let them* (the Archdeacons) *not presume to take a Fee for not Visiting.* L. 1. T. 22. c. *Ut singula.*

However by degrees, in most places by general consent *these Fees* were paid, notwithstanding this *Constitution*; and instead of a *Visitation*, the Archdeacon by himself, or his Official, at two of his *Chapters*, held about *Easter* and *Michaelmas*, made an Enquiry into the Circumstances of every Parish, and continues still so to do; and this Enquiry began at last

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to be called a *Visitation*, and these Fees, *Procurations*.

And as the Archdeacon held his *Capitulum*, or *Chapter*, and *Visitation*, as it is now called, at the same time; so the Bishop held his *Diocesan Synod*, and visited all at once: From whence 'tis, that *Procurations* are sometimes called *Synodals*. These *Synodals* may now in some places be due to the Archdeacon, by composition with the Bishop. *Godolph. cap. 9. sect. 8.* For Bishops too have for many Ages received these *Synodals* or *Procurations*; but now these Assemblies are only to make Enquiry into the Neglects of Clergy and People; and it often happens, that both Bishop and Archdeacon hold these Assemblies in the same Year, and both have *Procurations* paid them: Of which see *Lyndw. in Gloss. ad L. 3. T. 22. ubi supra, v. Visitatione.*

But it must be acknowledged, that these Payments are for the most part very moderate; and that a Personal Visitation from the Archdeacon once in three Years, would be a greater Expence to the Clergy, if they were every one to entertain him and his Retinue a Day and a Night, as of old, than is now paid to him in lieu of *Procurations*, in three Years time.

It is said by some, that *Procurations* are due to the Archdeacon yearly, tho' he do not Visit; because by the 33 *Hen. VIII. cap. 5.* they seem to be made *Pensions*, where paid by *Impropriators*: And from hence they infer, that they are not now due *Rationa*  
*Visita-*

*Visitationis*, but by Act of Parliament. *Godolph. cap. 9.*

Sir *Samuel Degg* labours hard to prove, that Archdeacons have no right to Procurations that Year the Bishop Visits. *Parf. Counsellor, l. 2. c. 15.* And yet if the Law allow that to be a *Visitation*, which is now commonly so called; and if there be no Canon forbidding the Archdeacon to visit the same Year, after the Bishop's Inhibition is relaxed, (and I declare I know of none) then why may not the Archdeacon visit the same Year, and if visit, why not receive Procurations?

It was an ancient custom, that the Prelate who visited, said Mass in the visited Church on the Visitation-Day, and had all the Offerings then made by the People. From hence it is supposed, that from some Churches the Ordinary still has a Yearly Payment called *Pentecostals*, or *Whitsun-Earthings*; or else they are a Payment of old due from the Inferior to the Cathedral, or Mother-Church, by others called *Cathedralica*.

## C H A P. XVIII.

## Of CHURCHWARDENS.

**I**T has been before observ'd, that Bishops in their Visitations summon'd *credible Persons* out of every Parish, to give an account upon Oath of the Condition of their Church and Parish; and it should seem, that by degrees these grew into standing Officers, described by *Lyndwood*, L. 1. T. 10. c. *Archidiacon. v. Sub pœnâ*, in these words; *viz. Guardiani Ecclesie ad hujusmodi reparationem faciendam, & alias ad bona Ecclesiastica disponenda electi.* And as personal Visitations began to be laid aside, and the custom of repairing Churches at the joint Charge of the Parishioners here in *England* came to be establish'd, as it was in *Lyndwood's* Age, *viz.* the beginning of the 15th Century, this Office became still more necessary. It is thought that the *Juratores Synodi*, or *Testes Synodales* mention'd by Foreign Writers in the 9th Century, came to those Meetings to inform the Bishops against those that were Delinquents against the Law of the Church; and that from hence our Quest-Men, who are Assistants to the Church-Wardens are called Side-Men, *qu. Synod-Men.*

“ Presentments are to be made by the  
 “ Churchwardens and Sidemen, if any be of  
 “ custom chosen, twice in the Year, and  
 “ oftener

“ oftener if they see occasion ; only in places  
“ where they use to present but once, that  
“ custom shall remain. Four Pence shall be  
“ paid for each Presentment made by custom,  
“ once or twice in the Year, nothing for any  
“ other voluntary Presentment, *Can.* 116. If  
“ it appear that they do willingly omit to  
“ present any Crime, they are to be proceeded  
“ against in Ecclesiastical Courts, as perjured  
“ persons. *Can.* 117. *Easter* is to be one of the  
“ times of presenting ; and the Presentments  
“ are to be made, not by the new Church-  
“ wardens, but the old, *Can.* 118. And the new  
“ Churchwardens, when they are sworn, may  
“ demand a Book of Articles, whereby to form  
“ their Presentments which they are to make  
“ at the next Visitation. *Can.* 119.

“ Ministers may join in their Presentments,  
“ or they may forbear, at their discretion :  
“ Or they may by themselves present publick  
“ Crimes, if the Churchwardens will not,  
“ *Can.* 113.

“ By *Can.* 89. Churchwardens are to be  
“ chosen yearly, by consent of Minister and  
“ People, if it may be ; if not, the Minister is  
“ is to chuse one, and the Parishioners another.  
“ But it has often been determined by Tem-  
“ poral Judges, that where Parishioners have a  
“ custom to chuse both, they shall continue so  
“ to do, the Canon notwithstanding. For no-  
“ thing but an Act of Parliament can alter a  
“ custom. See *Godol. c.* 9. But if by custom  
“ the Minister chuse one, and the People ano-  
“ ther, this custom is good. *Godol. ibid.* And  
“ tho’



tho' in some places there be a *Prescription* for Churchwardens to continue in Office 2 Years; yet they are removeable at pleasure, by chusing new ones. *C. 39. p. 305.* And therefore tho' the Parishioners cannot bring an Action against the Churchwardens, yet they may at pleasure chuse new ones, who may sue the old ones to Account. *Ibid.*

The Pews, Bells, Surplice, Chalice, Books, Organs, Cloths, &c. belong to the Churchwardens, and if they be taken away or broken, the Churchwardens have an Action at Common Law against him that did it. *Ibid. 302, 303.*

Churchwardens are a Corporation, and therefore they must sue, and be sued jointly. In *London*, the Parson and Churchwardens are a Corporation. *Godol. c. 13. sect. 5.*

But it is said, Churchwardens are not a Corporation to receive Lands for the Benefit of the Church, but Goods only; and they cannot dispose of Goods without the consent of Vestry or Sidemen. *Godolph. ibid. sect. 17, 18.*

He that shall steal a Winding-Sheet from a Dead-Corps, is guilty of Felony, but must not be sued in the name of the Incumbent, or Churchwardens, but of the Executor, or him who buried the Corps. *Watsf. p. 304.*

A Churchwarden may prevent any Disorder or Irreverence in time of Divine Service, by whipping Boys, or taking off the Hats of those who would keep them on. You may see this proved in *Watson*, by Precedents  
out

out of the Common Law, c. 34. p. 266. such persons may be presented, or indicted, and be bound to keep the Peace, who are guilty of any Disorder in time of Divine Service. *Ibid.*

None can make a Church-Cess, but the Churchwardens with the Parishioners; therefore the Parishioners are first to be summoned to a Vestry, in order to make a Tax; and if the Parishioners refuse, the Churchwardens may do it themselves. *Watf. c. 39. p. 302.*

Churchwardens are accountable to the Minister, new Churchwardens, and Parishioners, for Goods and Money by them received for the Use of the Church; and if they do not give up their Accounts accordingly within a Month after they be out of Office, as the 89th Canon directs, they may be compelled to do it, upon Complaint made to the Ecclesiastical Judge. But after they have accounted to the Minister and Parishioners, and have their Accounts accepted by them, the Ecclesiastical Judge cannot *ex Officio* call them to account before him. *Godolph. c. 13. sect. 19.*

P E W S.

The Ordinary, in most places, has power to dispose of the Seats in the Body of the Church, if Complaint be made to him. And yet it has been said, that the Parson and Churchwardens have this power; that is, as Doctor *Watson* argues, in case Complaint be not made to the Ordinary. But by custom, the Churchwardens

wardens may have the disposal of the Seats, as in *London. C. 39. p. 296, 297.*

Churchwardens may pull down Pews erected without Licence from the Ordinary, but not cut any Timber. *Watf. c. 39. p. 300.* But Sir *S. Degg* says, that neither Churchwarden, nor any other can do it, without leave from Parson or Ordinary. *P. 143.*

Of common right, the chief Seat in the Chancel belongs to the Parson, yet by custom another may have it, as belonging to his House; and *Watson* argues, that the Ordinary has power of right to a place in the Chancel, as well as Body; but owns, that the Law is settled to the contrary. *Ibid. 301, 302.*

But Chapels, Chancels, and Isles, built or repair'd time out of mind by Noblemen or others, are for the sole use of them and their Families. And it has been adjudged at Common Law, that any Person has right to sit in a Pew repair'd by himself; and those whose Estate within the said Parish he now possesses, time out of mind. And some are of opinion, that the Ordinary may appropriate Seats to Houses, tho' not to Persons, and their Heirs. But *Quere.*

A Person by *Prescription* may have right to the upper place in a Pew. But in case of a Controversy, the Bishop or Ordinary may inhibit them from making a Disturbance, till the Right be try'd at the Common Law. *Watf. ibid. 298.*

C H A P. XIX.

Of Church Censures.

Here are some Censures, to which Lay-Men, as well as Clergy-Men are subject, viz.

I. *Suspensio ab ingressu Ecclesiæ.* So by the Constitution of Archbishop Stratford, the Arch-deacon, in some Cases was to be Suspended from going into the Church, L. 3. T. 6. Item *quia*: So by Stat. 5, 6. Edw. 6. cap. 4. the Ordinary is directed, if any Man Quarrel, or Chide, by Words only, in any Church, or Church-yard, to Suspend every Person so offending, from going into the Church for so long time as the Ordinary shall think fit.

II. Excommunication, which is either,

1. *Excommunicatio Major*, whereby Men are deprived, not only of the Sacraments, and the Benefit of Divine Offices, but of the Society and Conversation of the Faithful. *Vid. Lynd. L. 3. T. 2. ut Clerical.* where this Punishment is inflicted on Obstinate Concubinary Priests: They, whether Lay-Men, or Clergy-Men, who Die under this Sentence, are not to be Buried, by the Book of Common Prayer, see Can. 68. This is called *Anathema & Mucro Episcopalis.*

2. Ex-

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2. *Excommunicatio Minor*, is a Depriving the Offender of the use of the Sacrament, and Divine Worship : This Sentence is pass'd by Judges Ecclesiastical, on such Persons as are guilty of Obstinacy or Disobedience, in not appearing upon a Citation, or not submitting to Penance, or other Injunctions of the Court. It must be Publish'd by the Curate of the Parish where the Offender lives, he being first authorised, and required to do it, by Virtue of an Instrument under Seal of Court ; and if the Offender do not reconcile himself within 40 Days after he is thus denounced Excommunicate, he may be taken up and Imprison'd, by a Writ *de Excommunicato capiendo*, Issu'd out of the *Queen's Bench*. 1 Hen. 5. c. 5. 5 Eliz. c. 23. and a Person taken by Virtue of this Writ isailable, otly by the Court of *Queen's Bench*, not by the Sheriffs, or Justices of Peace. *Godol. c. 42. Sect. 25.*

In many Cases, and for many Crimes, Offenders are said to be Excommunicate *ipso facto*. *Lyndwood* says, there are 175 Cases mentioned in the Provincial only, in which Men are said to be so ; and by Statute 5, 6 *Edw. VI. He that Smites, or lays violent Hands on another in a Church, or Church-yard, shall be deem'd ipso facto, Excommunicated.*

It has been disputed, whether Persons, who are by Law, or Canon declared *ipso facto* Excommunicated, do fall under that Sentence, before they are Cited by the Ordinary, and have the Fact proved against them, and they are denounced Excommunicate in *Ecclesiastical Court* ?

Now



Now the Judges have declared, that Excommunication takes no effect, as to the Common Law, till it be denounced by the Ordinary; no, not when such Excommunication is decreed by Act of Parliament, as by the afore-said Statute of *Edw. VI.*

If the Fact be not Notorious, or Evident beyond Exception, it must be proved, and the Sentence pass'd in *Ecclesiastical Court*, before the Criminal is taken for Excommunicated *in foro Ecclesiæ. Lynd. L. 1. T. 2. Gloss. vers. finem.*

And if the Fact were Notorious, yet the Offender was to be publicly declared Excommunicated, before it could be Criminal for other Persons to converse, or deal with the Person *ipso facto* Excommunicated; but then it was sufficient for the Curate of the Parish to denounce the Excommunication, without any special Order from his Superiour, *L. 3. T. 28. Vers. fin.*

But still the Offender is to be deem'd Excommunicate, before such Publication made, otherwise there will be no difference between *Constitutio Sententia latae*, and *Sententia ferenda*. And the Canonists do say, that *Excommunicatio ipso facto*, is *Excommunicatio facta nullo ministerio hominis intercedente*. So a Church, to which a Clerk is Simoniacally presented, is void, and the Presentation is null *ab initio*, so it be not declared so till many years after.

The use I would make of this, is, that Persons notoriously, and beyond doubt, guilty of  
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any Crimes, as for Instance, Leaders in Schism, or Popery, for which Excommunication *ipso facto* is Decreed against them by the Canons of the Church; are really Excommunicated, tho' they be not particularly by Name publish'd, or declar'd to be so. And that therefore, a Minister may refuse to Bury them, if they Die impenitent. For such Persons are declared *ipso facto* Excommunicated by *Can. 2, 3, 4, 5, 9.* And that the Excommunication here meant, is *Excommunicatio major*, appears by this Rule of the Canonists, *Excommunicatio simpliciter prolata intelligitur de Majori*; and because *they cannot be Absolved but by the Archbishop*, see the Canons above Cited.

The 68th. Canon, does indeed require Curates to Bury all that are not denounced Excommunicated, &c. but if we may believe the Canonists, 'tis a sufficient Denunciation, if it come to the Knowledge of the Person Excommunicated. *Lynd. in Gloss. L. 3. T. 28. c. Sect. Princip. v. Excommunicati.* So that the Curate, who has taken care that his Parishioners, who are Promoters of Popery and Schism, be made sensible, that they are Excommunicated by Canon, seems to be under no obligation to Bury them, when they are Dead; and so, tho' these Excommunications, through the Iniquity of the Times, and the multitude of the Offenders have no other effect in this World, yet they may at least serve to indemnify a Clergy-Man for not doing so absurd a thing, as to Bury the Corps of

one, who has ( perhaps ) renounced his Baptism, or however Dyed in a profest Hostility against the Church.

Every Curate is, by the *Rubric* before the Communion Office, required to call and advertise any notorious Evil Liver, that he presume not to come to the *Lord's Table* ; and this is afterwards called a *repelling of him* ; so that it is evident, the Minister in such a case, is not bound to admit the Offender ( let him be never so great a Man ) to the *Lord's Supper* ; but the Curate is, within 14 Days, to give notice of it to the Ordinary ; that is, I suppose, if the Admonition or Repulse were publick ; for if the Curate, laying aside his Authority, do only in private advise him to refrain, then there is no necessity of giving an account of it to the Ordinary.

But if the Offender do, at the Curate's Admonition, openly declare himself to have truly Repented, and Amended his naughty Life, then he is not to be Repelled ; and consequently no notice need be given to the Ordinary : But then it may be ask'd whether the Curate can, without a Rule of Court, take the publick Confession, and Declaration of Repentance of any Delinquent Parishioner ?

In answer to which, I know not what the *Civilians* of this Age will say ; but I will tell the Reader what I find in *Lyndwood*, which is, that every Priest may enjoin publick Penance to his own Parishioner ; L. 5. T. 16. c. *Preterea in Gloss.* And I suppose that Confession of Crimes, is the lowest degree of publick

Penance. Nay, the Canonists of that Age allow'd, that Curates might Excommunicate, *Excommunicatione Minori*; and likewise, that they might Absolve Persons under that Censure, unless it were in such cases as were reserved to the Bishop, &c. And they gave this Reason for it; namely, that Curates, that is, Incumbents, were Prelates, and Prelates have Jurisdiction, and there can be no Jurisdiction without Coercion, *L. 3. T. 16. c. quoniam Propt. v. Censuram Ecclesiast. & ad ordinandum, & L. 5. T. 16. c. Sacramentum, v. non tenere*. And it appears, that Curates did likewise, without Commission from their Bishop, Absolve Persons that were under the greater Excommunication, till Archbishop *Peckham* made the Constitution last mentioned; whereby such Proceeding was forbid for the future. To denounce, or publish an Excommunication past by a Superiour, by Virtue of a Letter under Seal of Court, was so far from being an Office peculiar to Clergy-Men, that by the Constitution of Archbishop *Boniface*, *Item contra. L. 5. T. 17.* this was allow'd to be done by Apparitors, or even by Beadles. I dare not say, how far Custom has lessen'd the power of Incumbents, but the *Rubric* is a safe Rule for them to act by.

By Statute 35 *Eliz. 1.* Any Minister may in the Parish-Church, take the Submission of a penitent Recusant, and the Recantation of a Schismatick, by *Can. 27.*

In times of *Popery*, there was another Censure used, to be inflicted by Ordinaries, or Bi-

Bishops; which was the forbidding all Sacraments, and Divine Offices to be performed (except Baptism to Children, and the Sacraments of the Eucharist, or Unction at the point of Death) within any Parish, Town, Country, or Nation; and further, sometimes they prohibited the People within such places, to be present at Divine Service, in any other place. This Censure was commonly inflicted, on pretence, that the privileges of the Church and Clergy, had been violated by the Lords, Magistrates, or Princes of any place, or Nation, and so the Innocent suffer'd together with the Guilty; and the Subjects, or People, for the Faults of their Superiours. In the Reign of *K. John*, this Kingdom lay under a *Papal Interdict* for above six Years together, beginning *Anno Dom. 1208*. And the *Pope*, as far as in him lay, put the Republick of *Venice* under this Censure, about the beginning of the last Century.

*Papish* Ordinaries, did not only inflict these Censures before mentioned, but sometimes Sentenced Offenders to be Bastinado'd, or to run the Gantlope. This they call'd *Fustigatio Solennis circa forum, vel Ecclesiam*. *Athon* ask'd a sawcy Question, *viz.* Whether a Gentleman, or Free-man, might be thus Handled? And leaves it undetermin'd. *Const. Otho. De Archiepiscopis Verb. crimina puniant*. And who can wonder, that Subjects were thus dealt with in those times; when he considers, that one of our Kings, *H. II.* was in the same manner Disciplin'd by the Monks of *Canterbury*,



for being the occasion of Archbishop *Becker's* Death?

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## C H A P. XX.

### *Of Holy-Days.*

**T**HE Festivals of the Church, by Stat. 5, 6 *Edw. 6. c. 3.* were as follows, viz. All *Sundays* in the Year, the Feast of the *Circumcision*, *Epiphany*, *Purification*, *St. Matthias*, the *Annunciation*, *St. Mark*, *SS. Philip and Jacob* (i. e. *James the less*) the *Ascension*, *Nativity of St. John Baptist*, *St. Peter*, *St. James* (the greater) *St. Bartholomew*, *St. Matthew*, *St. Michael*, *St. Luke*, *SS. Simon and Jude*, *All Saints*, *St. Andrew*, *St. Thomas*, *Nativity of our Lord*, *St. Stephen*, *St. John Evangelist*, *II. Innocents*, *Munday*, and *Tuesday in Easter*, and *Whitsun-weeks*. *St. Paul's Conversion*, and *St. Barnabas* have since been added. *St. Mary Magdalen's Day*, viz. 21<sup>st</sup>. of *July* was left out in this Act, and in the second Service-Book of *Edw. VI.* there is no *Epistle*, *Gospel*, or *Collect* for that Day, as there was in the first Book of *K. Edward's* Reign.

By this Act, all Persons were equally obliged to keep *Holy-days* and *Sundays*; and all Persons offending, were to be Censur'd by the Ordinary, who was to enjoin them *Penance at discretion*: But this Act was Repealed, by Statute 1 *Mar. c. 2.* and afterwards this Statute of

*Mary,*

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Mary, was Repealed, by 1 Jac. 1. c. 25. Wingate, and others, doubt whether this Act of Edw. VI. be Revived by the Repeal of Jacob. 1. but according to Cook, it is well Revived. Watsf. c. 25. p. 249.

However, the Observation of *Holy-days*, is as it were, part of the Common Law of *England*; they having, in all probability, been kept ever since *Christianity* it self was here received. In the Council of *Clovesho*, where not only the Prelates, but King, and Nobility were present, in the Year 747. the Observation of *Holy-days* was enjoin'd by all the Authority, both Sacred and Civil, of this Church and Nation, and from that time forward, hath still been retained till the late Rebellion, when this, and many other good things grew into disuse: But at the Restauration, they were again Revived by the *Act of Uniformity*, whereby the *Liturgy*, as amended by Convocation, is establish'd; for in this *Liturgy*, which this Act Authorizes, there are *Epistles*, *Gospels*, and *Collects*, appointed to be read on *Holy-days*, and the Curate is to give Notice on the *Sunday* before, *what Holy-days are to be observed the Week following*: And the Preface of that Act declares it to be *Schismatical* to Refuse to come to Church on *Holy-days*; and by this Act, 1 *Elix.* is declared to be in full Force, and by 1 *Elix.* all Persons are obliged to resort to their *Parish-Church* on *Holy-days* as well as *Sundays*, upon pain of punishment by the Censures of the Church, and likewise upon pain of 12 d. for every Offence, to be Levied by Distress.

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The Statute Law has made a distinction in this last Age, betwixt *Sundays* and other *Holy-days*. "For all Pastimes, out of their own Parishes, is forbid People on the *Sunday*, under penalty of 3 s. 4 d. or being set in the Stocks three Hours. 1 *Car.* 1. c. 1. and all Work, and Worldly Business, or Travelling, without a License from a Justice, is forbid on this Day, under 5 s. penalty; and Goods exposed to Sale, are Forfeited, by 29 *Car.* 2. c. 7. By the same Law, any Process served on the same day is void, and he that serves it is punishable, as if he had done it without Warrant. Further, he that goes with a Waggon, or Travels with a Drove, Forfeits 20 s. and a Butcher Killing Meat, or Selling it, 6 s. 8 d. 3 *Car.* 1. c. 1.

But the Parliament never yet saw just occasion to make any Penal Law against Clergy-Men, for neglect of their Office on that Day, which shews how diligent they have been in this main part of their Duty, or at least, how great a Care the Bishops have taken to prevent, or supply any defect in this particular.

If the Clergy have not of late Years been so strict in observing other *Holy-days*, it is chiefly to be attributed to the backwardness of the People, who either thro' false and superstitious Notions, or an immoderate pursuit of Worldly Profit and Pleasure, are not easily drawn together to Worship God on these Days.

The Bishops indeed, have the same Power, to oblige their Clergy to observe other *Holy-days*,

days, that they have to oblige them to keep *Sundays*: But there are several Penal Laws, whereby all People are bound to go to Church on *Sundays*; and these Laws are in Force, against all Persons that do not go, either to Church, or some other Religious Assembly on that Day. See *Toleration Act*. But there is no Penal Statute, whereby the People are obliged to keep other *Holy-days*, unless it be that of *Edw. VI.* which leaves them to the *Spiritual Courts*: And if they should Persecute *Dissenters* on that Act, it would be a Breach of the *Toleration*; if they should Prosecute those, who are not *Dissenters*, this would be one way to make them so: But (as was said) some Question, whether that Act be in Force.

There is in our *Liturgy*, a Table, containing the *Days of Fasting, and Abstinence*. By *Fasting*, I think none of our Church understand forbearing Flesh, and eating Fish. "Tho' by Statute 5 *Eliz.* still in Force; none may eat Flesh on Fish-Days, without License from the Minister, under penalty of three Pounds in Money, or three Months Imprisonment without Bail, and forty Shillings Forfeiture to him that Conceals it: But this is declared to be meer Political Law, and he, who says 'tis necessary to Abstain from Flesh for the Service of God, shall be punish'd as a Spreader of false News; that is, be Imprisoned till he produce the Author. Stat. 34 *Edw. 3.* c. 1. and if he cannot produce the Author, he shall be punish'd by the King's Council, 12 *Rich. 2.* c. 11. H5 But

But, I suppose, our Days of *Abstinence* are to be kept, by forbearing those Pleasures and Varieties of Meats, and Drinks, and Diversions, which we may at other times Innocently enjoy. *Bellarmino* says, that the Feasts and Fasts of the Church, *habent mitissimam obligationem*. We of the Church of England, Act as if we thought so too.

Besides the stated Feasts and Fasts of the Church; there are other Days prescribed to be observed by Act of Parliament, *viz.*

The 5th of *November*, as a day of Thanksgiving, for the discovery of the *Gunpowder-Treason*; and the Statute for keeping the Day, is to be read after Morning Prayer, or Preaching on the same day.

The 29th of *May*, as an Anniversary Thanksgiving for the Restauration of the *Royal Family*, and the Church; the Act 12 Car. 2. c. 14. to be read on the *Sunday*, next before.

The 30th of *January*, as a Day of Publick Humiliation, for the Murder of *K. Charles I.* See 12 Car. 2. c. 30. This Act is not directed to be read in the Church; and *Memorandum*, that if this Day fall on a *Sunday*, 'tis to be kept on the next day. For it is a Rule always observ'd, not to Fast on *Sundays*; because, that is the stated Christian Feast in all Churches, but those of *Rome*, and *Scotland*. For the Church of *Rome*, contrary to the Ancient Practice, obliges her Votaries to *Abstain* (as they call it) on *Sundays*, as well as other days in *Lent*: And in *Scotland*, State-Fasts are often Appointed on the same day.

Some



Some have Question'd, by what Law the Fasts, and Thanksgivings, appointed by the Queen, are observed, and by what Authority the Office for the Day appointed by Act of Parliament, is set aside, and an Occasional Form appointed to be used instead thereof. I think it is sufficient in this Case, that the two Houses of Parliament have, and do own this Power to be lodg'd in the Crown; as they do, by always submitting to these Royal Commands, in observing these Days in the manner prescrib'd by Proclamation, and sometimes Petitioning the King or Queen, to order these Religious Solemnities.

For the Protection of those, who observe Religious Times, by frequenting the publick Worship, it hath been provided, that *No Clerk, or other, doing Divine Service, be Arrested.* 50 Edw. 3. c. 5. 1 Rich. 2. c. 15. This Act is so understood, that no Person shall be Arrested, *Eundo, morando, redeundo*, to, at, or from Divine Service; the Person Offending may be Fin'd in the Temporal Courts, or Excommunicated, and condemn'd in Cost, in the Ecclesiastical: But then this Act Protects no one against a Warrant from a Justice, for that is for Breach of Peace; and for the Queen. And further, if the Party Arrested, have Absconded, he has no Benefit by this Act. And after all, tho' the Bailiff be punishable, yet the Arrest is good in Law. *Watf. c. 34. p. 261.*

## C H A P. XXI.

## Of MARRIAGE.

**I**N order to a regular Marriage, the Banns must first be publish'd by the Minister in time of *Divine Service*, on three several *Sundays*, or *Holy-days*: Whoever has any Objection, must apply himself to the Ordinary, who if he see Cause, may send an Inhibition to the Minister, forbidding him to proceed: But if no such Inhibition be sent, the Minister may Marry them at any lawful time, or place: But at the time of Marriage, when the Minister says, *If any one know any just Cause, &c. if any one do allege any Impediment, and give security to the Persons to be Married, to the full Damages they will sustain by not being Married, that he shall prove his allegations*, then the Marriage shall be deferr'd till the Cause be determined, or Parties agreed.

Lawful Impediments are three, *viz.* 1. Pre-contract, when one, or both Parties, are before Married, or Pre-engaged to some other Person, by Solemn, mutual Promise made before several good Witnesses. 2. Consanguinity, or Affinity: To know, who are too near a Kin to Marry by the Laws of our Church; see the *Table of Degrees*, set forth by Archbishop Parker, Anno Dom. 1563. and Authorized, and enjoined to be set up in Churches, by Canon 99.

3. Want

3. Want of Consent of Parents or Governors, if either Party be under 21 Years of Age. And in case the Minister, after Banns publish'd, do Marry Persons under that Age, without having the exprefs consent of Parents, or Guardians, he incurs Suspension for three Yers, by *Canon 62.*

Cousin Germans are not forbid to Marry, by any Law of *God*, or *Man*, except the *Pope's Canon Law*, which is not now in Force as to this particular, see Statute 32 *Hen. 8. c. 39.* Prohibited, 'as 'tis certain they are not, then they, who are more remotely related, cannot be under any restraint in this particular; whatever some People have vainly fancied.

Some Parish Officers have presum'd to forbid Banns, because the Parties have been Poor, and like to create Charge to the Parish, or because the Man has not been an Inhabitant, according to the Laws made for the Settlement of the Poor. But,

No Person has Authority to forbid the Minister to proceed in publishing the Banns, but the Ordinary only. If indeed the Minister be fully satisfy'd, that there be any of the three Impediments above-mention'd, he ought in reason to forbear publication, and is liable to Censure, if he proceed to Marry them; if it can be proved, that he knew the Impediment: But the Curate is not to stop his proceeding, because any peevish, or pragmatrical Person, without just Reason or Authority, pretends to forbid him. Poverty is no more an Impediment

diment of Marriage, than Riches, and the Kingdom can no more subsist without Poor, than without Rich. And I see no Reason to doubt, but that Banns may be publish'd, and Marriage be solemniz'd betwixt two Persons that do at present abide, or sojourn within a Parish, tho' they be not fixt Inhabitants, according to the Acts for Settling the Poor. For such Persons are Parishioners, as to the Minister, who is to Visit them, if they are Sick, to give them the Sacraments whilst Living, and Bury them when Dead. And they are to perform the Duty of Parishioners to him, viz. to pay him Tythes and Offerings, if there be any to be demanded. They are Parishioners in all respects, but only that they are not liable to be kept by the Parish, if they fall into Poverty, Nor does the Statute, or the Law say, that any Man is made liable to be kept by a Parish, because he was there Married by Banns: Nor does it appear, that these Temporal Laws, relating to the Poor, were intended to alter the Laws of the Church, which by Custom and Canon, has all along permitted, and requir'd Persons to have the Banns publish'd, and the Marriage celebrated where the Parties dwell, or are commorant. See Can. 62, in *Latin* and *English*. And the *Rubric* before Marriage, to the same purpose. If they dwell in divers Parishes. *Si degunt in diversis parochiis*, says the Old *Latin* Translation, *si vivunt*, says the New: But for Caution sake, the Minister in publishing the Banns, may say, *N. of this Parish Sojourner.*

Some Clergy-Men have been summon'd and corrected in the Spiritual Courts for Marrying Persons in Churches where the Banns were not ask'd, and to which the Parties married did not belong as Parishioners; tho' they had a Certificate of the Banns being publish'd under the Hand of the Minister, or Ministers, whose Parishioners they were: And indeed this was forbid by Ancient Canons, as well as by our present 62 Canon: But then the Licence of the Curate, whose Parishioners they were, was sufficient by the *Constit.* of Archbishop *Stratford*, L. 5. F. 1. c. *Humana*; and so it should in reason be now; but then the Curate must do more than certify the Publication of Banns, he must expressly, under his Hand, give leave to be married in another Church, and to the Curate of that other Church to marry them.

By the Canons, both Ancient and Modern, it is well provided, that Marriage shall be celebrated *in facie Ecclesiae*, or in time of Divine Service; but this Practice is now, as 'twere by universal consent laid aside.

'Twas an ancient custom, and a very good one, that Marriage should be performed in no other Church, but that to which the Woman belonged as a Parishioner; and therefore to this day the Ecclesiastical Law allows a Fee due to the Curate of that Church, whether she be married there or not. But 'tis said, that Judgment has been otherwise given in the Temporal Courts.

Our Canons do not allow any to be married



ried in Private Houses, or at any other time of the Day, but between 8 and 12 in the Forenoon. And the Bishops seldom or never dispense with these Canons here, as they often do in *Ireland*.

*We might right well*, says the great and judicious Mr. *Hooker*, l. 5. sect. 73. *think it absurd to see in a Church a Wedding on the Day of a Public Fast*; therefore no regular Clergy-Man Marries any by *Banns* during the solemn Time of *Lent*; when good Christians ought to be engaged in more serious, and heavenly business; and even when a Licence comes, and the case is somewhat extraordinary, yet he can scarce ever get his own consent to the doing so unagreeable a thing.

But the Proctors, and some Almanack-makers tell Clergy-Men that Marriage is out from *Advent Sunday*, till the *Octaves* of *Epiphany*; from *Septuagesima Sunday*, to *Low Sunday*; and from *Rogation*, to *Trinity Sunday*; and that therefore during those times they must marry none without Licence: But this is a harder Precept than that of the Church of *Rome*, which only obliges persons not to marry from *Advent Sunday* till *Twelf-tide*, and from *Ashwednesday* to *Low Sunday*, if we may believe the public Catechisms of that Church. See also the *Ritual* of the Church of *Rome* in the Order of *Marriage*, which is to the same purpose. 'Tis strange, that Marriage should be prohibited in our Church in *Advent*, for that was never kept as a Fast in our Church, tho' it were among some of our Neighbours. Nor can I see any good

good reason, why Marriage should be prohibited 17 Days before *Lent* begins, and in *Easter*, and *Whitsun-week*; nor does Mr. *Hooker* attempt to justify this niceness, and I suppose there was no occasion for it: Because the generality of the Clergy thought it sufficient then, as they likewise do now, to forbear marrying only in *Lent*, and on solemn *Fast-days*: But they are extremely severe, who would not permit Men to marry either *feasting* or *fasting*; either in *Lent* or *Carnival*, without paying 20 s. extraordinary.

As I don't doubt, but that there are some Officials ready enough to take an advantage against a poor Clergy-Man, and to censure him for transgressing this antiquated and unreasonable Canon: So neither do I doubt, but that a wealthy Clergy-Man might find Relief by applying to the Temporal Judges. For indeed the greatest Hardship is to the People, who are hereby for a great part of the Year restrained from using that Liberty which God and Nature allows all Men, and which all Governments ought to encourage, I mean, Honest Marriage. For the greatest half of the Nation are such as cannot be at the charge of a Licence, without hurting themselves, and their future Families; and indeed by the Canon, Licences ought not to be granted, but only to *such as be of good State and Quality*. Can. 101.

Some have indeed question'd the Bishop's Power to grant *Licences* for marrying without Banns first publish'd, because this is dispensing with

with an Act of Parliament; for the Marriage-Office, which requires Banns, is part of the Statute Law. But then it is answer'd, That this power of dispensing is granted to the Bishop by Statute Law too; I mean, by the 25 H. 8. c. 21. by which, *all Bishops are allow'd to dispense, as they were wont to do*: And such Dispensations have been granted by Bishops ever since Archbishop Mepham's days at least, who died *Ann. Dom.* 1333. See *Prov. L. 4. T. 3. c. 1.*

Many of those Churches, which formerly were exempt from the Bishop's Visitation by virtue of the Pope's Bull in favour of some Monastery of Regular Monks or Friars, do still remain so exempted; and so are visitable only by the Crown, and have now for some Ages been visited by no body at all: These are called *Lawless Churches*; because the Ministers belonging to them being not obnoxious to the Canons, Marry without either Banns or Licence: But now, by Act of 7, 8 W. 3. for granting certain Duties on Marriages, &c. it is provided, "That no Minister in places exempt, or not exempt, shall marry, or permit others to marry in his Church, without Banns or Licence, under Penalty of 100 l. and for the second Offence, Suspension, *ab Officio & Beneficio*, for two Years.

C H A P. XXII.

Of the Christian Æra, and our Account of Time.

WE now reckon 1705 Years since the Birth of Christ, which Account was first settled by *Dionysius Exiguus*, a *Scythian* born, and afterwards a *Roman* Abbot: He drew a *Paschal Cycle* for 97 Years, beginning 527. From him others took this Way of Reckoning. The first time we find it used here, is at the Council of *Becanceld*, which is dated *A. D.* 694 at the Council of *Calecyrh*, *A. D.* 816, all the Bishops are required to take an Account of the Year of our Lord. The *French* and *Germans* did not receive it, or use it in any of the Epistles and Charters, till the latter end of that Century: *Bede* was the first who is observed to have made use of it in History, either here or any where else.

But *Scaliger*, and others since him, will not allow that the *Annus vulgaris* is the *Annus verus*; he places it almost two Years sooner; some four, some five; but one of our Nation has fixed it precisely three Years, two Months, and seven Days before the Common Account. *Harm. of the Gospels.* p. 161.

The exact Observations of later Ages have discovered an Error in the *Julian* Account of Years; so called, because settled by *Julius Caesar* 45 Years before the Birth of Christ, and by him order'd to be observ'd throughout the

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the *Roman Empire*, of which *Britain* was then a Province, and is still retained here, and called the *Old Stile*.

By this Account the Year is supposed to consist of 365 Days, and 6 Hours; the odd Hours added together, amounted every fourth Year to a whole Day, which is therefore added every fourth Year, call'd *Bissextile*, or *Leap-Year*.

But there are not six full Hours above 365 Days in the true Solar Year, there are 10 Minutes, 44 Seconds wanting to make the 6 Hours compleat; and therefore the addition of a whole Day every fourth Year was too much, and in 134 Years makes a variation of a whole Day; by which means it is come to pass, that the *Vernal Equinox*, which was in *Julius Caesar's* time on the 24th of *March*, and at the Council of *Nice* on the 21th, now falls according to our *Old Stile* on the 10th of that Month.

Pope *Gregory* the 13th, to correct this Error, in the Year 1582. order'd 10 Days of that Year to be left out, by calling the 5th of *October* the 15th; by which means, the next *Vernal Equinox*, which would otherwise have been on the 11th of *March*, fell on the 21th, as it did at the time of the Council of *Nice*, 325 Years after Christ. He also order'd the Intercalary Day the 29th of *February* to be omitted at the end of the three ensuing Centuries, and to be retained at the beginning of the fourth. This is called the *Gregorian*, or *New Stile*, which since the beginning of this



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18th Century differs eleven Days from the other; whereas before, *Febr.* 29th 1700 it was only ten before ours.

Many have wished that our Computation were rectified, and several Ingenious Men have proposed their several Methods of doing it. Some would have the Year reduced to the same state it was in at the time of *Julius Caesar*. Others would stop at the Birth of Christ, and others are for looking back no farther than the time of the Council of *Nice*; and so conforming our Stile to that of the generality of our Neighbours; as the *Protestant States of Germany* did at the turn of the last Century; but yet in such a manner, that they shew'd they judg'd for themselves, and did not blindly follow the Infallible Guide at *Rome*: Their Conclusions were not altogether the same with those of *Pope Gregory*, and the *Mediums* they used were very different, and yet their Account in the main will agree with the *Gregorian*; only if the *Pascal Full Moon* happen on a Saturday, the *Gregorian Calendar* makes the next Sunday *Easter*, the *Germans* the Sunday se'night.

It is on all hands allowed, that our *Paschal Calculations* need a Review. Doctor *Wallis* has proposed a short and plain Rule for the Observation of *Easter*, which would make all manner of *Cycles* needless; and that is, that *Easter shall always be the first Sunday after the first Full Moon, next after the Vernal Æquinox.*

But

But I apprehend it ought to be consider'd, whenever this Business is undertaken, whether, when the *Paschal* Full Moon happens on a Sunday, that shall not be our *Easter-day*, as our present practice is; or whether we shall defer it to the Sunday following, as the Rule directs, which agrees in this particular with the *German Account*; and by which we shall avoid what the Ancients thought a fault, namely the keeping *Easter* on the same Day with the *Jews*.

And indeed the keeping *Easter* on the same Sunday on which the Full Moon happens, may sometimes be occasion of what seems a considerable Mistake; that is, the Full Moon may happen on what we now call Sunday, according to our *Civil Account*, but which in the *Ecclesiastical* or *Religious Account* is part of Monday. For *Scriptural Days* begin at 6 in the Evening, and end at 6 the next Evening; according to those Texts in the first of *Genesis*, *the Evening and the Morning were the first, second, &c. Day*. Now if the *Paschal* Full Moon happen after 6 a Clock at Night of the *Civil Sunday*, then it is on Monday according to the *Scripture-Account*, and so *Easter Day* ought by all means to be observed on the Sunday following. For tho' the Church does not affect to keep *Easter* on the same Day with the *Jews*, yet she has divided her Nights and Days according to the *Scriptural* and *Civil Account*. And tho' our *Civil Day* begins from Midnight, yet our *Ecclesiastical Day* begins at 6 in the Evening: And therefore the Collect for the  
Sun-

Sunday is to be read on what in our *Civil Account* is called *Saturday evening*, and the *Collect* for every *Holyday at Evening Prayer* next before.

The proper time for Vespers, or Evenlong, is six a Clock, and from that time the Religious Day begins; therefore where Evening Prayer is read at its proper Season, the *Collect* for the *Purification* may well be used, as the Rubric directs, on what we call the *foregoing Evening*; notwithstanding those words, *thy only begotten Son was this day presented in the Temple*.

This first part of the Festivals was, very early among the Primitive Christians, spent in Hymns, and other Devotion; (see the *Martyrdom* of St. Ignat.) which were oft-times continued till late in the Night, and were from thence called *Vigils*; which *Vigils* were by degrees enlarged, till at last the whole preceeding Day was call'd by that Name: Nor only so, but latterward they were so loath to part with their Religious Feasts, that they did not think them ended at the beginning of the next Evening, but lengthen'd out the Solemnity so long as the Twilight continued: And what *Lyndwood* says of our *Lady-day*, may I suppose be applied to all other Feasts of the Church; viz. *Quoad Festivitatem, sive celebrationem Divini Officii, incipit Annunciatio, in primis vespers, finitur post secundas. L. I. T. 3. c. Nullus, verb. Ante Annunciationem.*

## C H A P. XXIII.

## OF PARISH-CLERKS.

**T**Here were of old, several Clergy-Men belonging to all Churches ( that were not extreamly Poor ) besides the Incumbent : Of these two or three were to be in Priests Orders, *Prov. L. 3. T. 15. c. 1.* These the Rector, or Vicar, might chuse at his own discretion, without expresse Leave from the Bishop, *Const. Oth. ad Vicar. Gloss. in propriis Personis* : And they were to be Maintain'd by the Incumbents, who gave them their Title, if they were not Ordain'd before. *Stillings. Eccl. Cases. p. 131, 132,* and these were called *Chaplains, Parish-Vicars,* and *Parish-Priests* : ( For it does not appear, that Incumbents were so called ). There were many Altars in most Churches, and the business of these Clerks was to Officiate, and say *Masses* for the Dead ; and they ( it should seem ) had, for their Salary, the Offerings made at the several Altars which they Supply'd. *Const. Oth. Eccles. v. altar.*

And it seems reasonable, that there should be as many in Inferiour Orders to attend those in the Superiour, whilst they were Celebrating. And let no one wonder how these were

Main-

maintain'd, since it appears, that he who had only the Office of carrying the *Holy Water*, was thereby provided of a Livelihood by the Alms of the People, which if they with-held, they were to be Censur'd. *L. 3. T. 7. c. a Nostris.* And it should seem, a Custom was growing up in *Lyndwoods* time, of giving them certain Fees every *Sunday*, and especially at the greater Festivals, and some Sheaves of Corn in Harvest, *Ibid.* It was sufficient, that they who thus attended the Priests, had taken any of the Inferiour Orders, or if they were but *Psalmists*, and had the *Prima Tonsura*, of whom the Canonists sometimes dispute, whether they might be called *Clerks*, or not.

At the beginning of the Reformation, there were in all probability, several Persons to attend the Incumbent in performing Divine Offices, especially in larger Parishes, as there are still in Cathedral, and Collegiate Churches; and these were all called *Clerks*, tho' they were not in *Holy Orders*, at least not all of them; of these, that *Rubric* is, I suppose, to be understood in the Burial Offices, *viz. the Priest, and Clerks meeting the Corps, &c.* In some Choires, those Singing-Men, who read the first Lesson, are called *Lay-Clerks* (a contradictory Name) it is not to be doubted, but before the Reformation, they were in some of the Inferiour Orders, *Psalmists*, or *Lectors* at least, of whom the old Canonists sometimes doubt, whether they were of the Clergy or not, and



of this sort, probably were those, who are, and have long since been called *Parish-Clerks*, whereof now there is but one in a Parish. See *Prov. L. 3. T. 1. Gloss.*

By *Canon 19.* the Incumbent has the choice of the *Parish-Clerk*, as he formerly had of the *Aquæbajulus*. But as the People of old, in some places, disputed this Right with their Rectors, and Vicars, so they have of late Years; and it has been several times adjudged, that where the People have a Custom of chusing their *Parish-Clerk*, the *Canon* cannot alter it, *Godol. c. 17. Sect. 15.* and that the Ordinary cannot deprive the *Parish-Clerk*, tho' he may Censure, and Excommunicate him for any Fault; but they only, who put him in, can deprive him. *Ibid.*

In some places, where the Incumbent has an undisputed Right of chusing his Clerk, the Parishioners have pretended a Right of chusing a Sexton, to have the privilege of the Bells, and digging the Graves; but I never knew that this was actually done in any place, but where of Ancient Custom, there uses to be a Sexton. And it seems unreasonable to suppose, that the Parishioners can divide an Office, that uses to be Executed by one, into two, and give to one a power of digging into anothers Freehold, without his consent. Nay, if the Minister have by Custom, chose one to Execute the Office of Sexton, as well as Clerk, why is not this a good Custom, and by what Law is he divested of this Right?

*Parish-*

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*Parish-Clerks*, after having been chosen, and declared by the Minister, are usually Licensed by the Ordinary, and may Sue for their Dues in the *Ecclesiastical Courts*. To have served the place a competent time without Objection, is sufficient without a License; as I heard a certain Vicar-General once declare in Court. When a *Parish-Clerk* is Licensed, he is Sworn to obey the Minister. So all the Old *Parish-Priests* and *Clerks*, took an Oath of Obedience to the Rector, or Vicar of the Church. *Prov. L. 1. T. 15.*

C H A P. XXIV.

*Of Tythes and Offerings.*

**T**YTHES are of three sorts, *Prædial*, *Mixt*, *Personal*. *Prædial* Tythes, are such as arise wholly, or chiefly of the Earth, as of Corn, Hay, Under-wood, Seeds, Herbs, Apples, Pears, Cherries, &c.

*Mixt* Tythes, are such as arise from Beasts, or other Animals Pastur'd, or fed with the Fruits of the Earth; as Colts, Calves, Lambs, Wooll, Milk, Fowls, &c.

*Personal* Tythes, are the profits arising from the Labour, Art, Trade, Negotiation, Industry of Men.

*Great* Tythes, are the Tenth of Corn, Hay, and Wood only. All other are Small, Privy, or *Minute* Tythes.

Since the Statutes for dissolving Monasteries, Lay-Men are capable of Tythes in *Perpetuity*, and may Sue for them, either in the Ecclesiastical, or Temporal Courts.

Unity of Possession, does not extinguish Tythes, insomuch, that the Glebe it self is Tythable; and if a Rector Lease his Tythes, and reserve his Glebe, and Sow it, he shall pay Tythes thereof to the Lessee, unless there be in the Lease special Words to the contrary. *Watf. c. 47. p. 404.*

And

And if a Parson Lease his Glebe-Land, and do not grant the Tythe thereof, the Tenant shall pay Tythe to the Parson. *Godol. cap. 23. G.*

And in case a Parsonage formerly belonged to a Monastery, and there were certain Lands in the same Parish, that belong'd to the same Monastery, and therefore paid no Tythes, while the Parsonage and Lands belonged to the same Body; yet since the dissolution, if the Parsonage becomes to one Owner, and the Lands to another, they shall pay Tythes; except it can be made appear, that both the Parsonage, or the Lands came to the Monastery before the Stat. 1 *Rich. 2.*

### *TYTHE in KIND.*

The manner of the payment of Tythes, is Govern'd by the Custom of the Place, as in Sheaves, Shocks, Cops, Cocks, or the like. The Parson, or Vicar, or their Farmer, cannot come himself, and set forth the Tythes, without the License, or Consent of the Owner, if he do, and carry it away, he is a Trespasser; but a Parson, or his Agent, may come and see the Tythes set forth, and spread abroad, and dry his Corn, Hay, &c. upon any convenient place in the Ground where it grew, till it be fit to be carried into the Barn. See 23 *Edw. 6.* and *Watsf. cap. 54. pag. 478.*

Tythes may be carried from the Ground, either by the common Way, or any way that

*only by the common way - 78*

the Owner of the Land uses to carry away his nine parts. And he that does not set out, and let the Parson view, and carry away his Tythes, shall pay treble Damages in the Temporal Court, but no Costs; double value in the Spiritual Court, with Costs, 2<sup>ed</sup> Ed. 6. c. 13. but this only extends to *Predial* Tythes.

By the Civil, or Canon Law, notice shall be given to the Parson by the Owner, when the Tythes are set forth, but not by the Common Law. *Godolph. c. 33. sect. 58.*

But in case the Owner sue the Parson, as he may, for neglecting to carry away the Tythe in time, he must prove that he first gave notice that they were set forth. *Watf. c. 54. p. 482.*

If Tythes set forth remain too long upon the Land, so as to do Damage, the Owner may take them; a Jury is to determine, when they have remain'd too long. *Ibid.*

When once the Tythes are set out, the Owner is not accountable for them to the Parson, if a Stranger take them away. *Watf. c. 58. p. 521.*

## F R U I T.

Tythes shall be paid of Fruit growing in Orchards, tho' Tythe of Corn, or Hay have been paid the same Year from that Ground; and the Tythe of Fruit is due, when gather'd. *Godol. c. 32. F. O.*

If the Ground be so rich, that it produces two Crops of Hay, Woad, &c. in one Year,  
Tythe



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Tythe shall be paid of both, without special Custom, or Agreement to the contrary. But for the Aftermath, Strubble, or Fallow, no Tythe shall be paid of common Right. Nor shall any Tythe be paid of Rakings, unless it appear that Fraud was used.

A Custom has of late years prevailed in some parts of *England*, to compound for the *Minute Decime*, according to the Number of Acres plough'd and fallow'd: So that he who has had 12 Acres of such Land, has paid two Shillings by the Year, in lieu of all Tythes of Pigs, Fowls, Eggs, &c. and so in proportion for any greater or less Number; and I have known, that a Parson has had a Verdict for such Composition; but I do not meet with any Judgments in this Case, mention'd in the Books.

In this Case, Tythe is not to be paid for the Strubble, but the Quantity of the Strubble is the Measure by which privy Tythes are valu'd.

### *H E M P   a n d   F L A X.*

Tythe of Hemp and Flax is ascertain'd by *Stat. 11, 12 W.3.* for seven Years, from *Lady-day 1700*, and to the end of the next Session of Parliament: *viz. 5 s. for every Acre sown, to be paid, before it be carried off from the ground.*

But no Land discharged from Tythe by *Modus*, or otherwise, is charged by this Act.

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*Land sown with Flax, or Hemp, since Feb. 2. 1684, and before the 2d of Febr. 1691, and paid Tythe in Kind, shall still do so, this Act notwithstanding.*

H O P S.

Hops are commonly reckon'd small Tythe; but how the Tythe of them shall be set forth, is not agreed, whether by the Tenth Pole, or by Measure; but the Owner is not bound to dry them, before he set forth the Tythe. *Watf. c. 49. p. 448.*

There can be no *Modus* for Hops, because of late Date; but they may be included in a *Modus pro Decimis minutis.* *Watf. cap. 49. cap. 448.*

It has been adjudged, that where Tythe of Milk is due in kind, it shall be paid by giving the Parson every Tenth Meal, and be sent to the Church-Porch or Parsonage-House. *Watf. c. 50. p. 451.* in which this Tythe differs from all others, which must be fetch'd by the Receiver.

L A M B S, C A L V E S, P I G S, &c.

Tythe of Lambs, Calves, Pigs, &c. is to be paid, when they are so old that they can live without the Dam, and on such Food as the Dam does.

W O O L.

W O O L.

Wool is to be paid on the Sheer-day; and if the Heads and Necks be *fraudulently* sheered before, Tythes shall be paid of that too. *Watsf. cap. 50. pag. 452.* If a Mans Sheep die of the Rot, or the Owner kill them, he must pay Tythe of the Wool, but not the Skins. *Watsf. c. 50. p. 452.* nor Flesh, eat in his own Houle.

H E R B A G E.

Herbage is to be paid for barren Cattel, which yield no Profit, to the Parson; but no Herbage shall be paid for the Agistment of Cattel, which a Man breeds for his own use, for the Plow or Pail; or which are to be so employ'd in the same Parish, without special Custom. *Watsf. c. 50. p. 455.* So if a Man eat a Ground with his own Saddle-Horse, no Tythes shall be paid thereof; but an Inn-keeper, or he that takes in Stock to keep, shall pay for the Ground so eaten.

No Tythe is due for Deer, Conies, &c. without special Custom.

Acorns, or Mast, if gather'd, shall pay Tythes. *Godol. c. 33. A. O.*

Bees pay Tythes by the Tenth Measure of Honey, and the Tenth Weight of Wax. *Ibid. B.*

Doves kept in a Dove-House, if sold, shall pay Tythes; and by custom, Tythe may be paid for those eaten in a Man's own House. *Ibid. D.*

I 5. Where

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Where Tythe of Eggs is paid, there no Tythe of Young; and where Tythe of Young, there no Tythe of Eggs. *Ibid. E.* And so where Tythe of Milk is paid, there no Tythe of Cheefe, & *è converso. Ibid. C.* Where Tythe is paid of Wool, none due for Pasture.

*Barren Heaths being inclosed, and otherwise improved, for the first Seven Years are discharged of Tythes in Kind; but shall during that Seven Years pay such Tythes as have been accustomedly paid before, by Stat. 2 Ed. 6. c. 13.* But Lands gained from the Sea, and grubbed Wood-Land, shall presently pay Tythes in kind. See *Godol. ibid. B.* But if the Wood-Land were before free from Tythes, *Quære.* It certainly ought in reason to pay: For Salt-Marsh, never yielding any Tythes before, when drained, pays Tythes.

No Tythe shall be paid of those things which do not increase, as Stones, Turf, Tin, Lead, &c. of common Right, and yet by special Custom Tythe may be due of these things; and even of Lime, Ale, white Salt, &c. *Watf. cap. 46. pag. 367.*

If Cattel do feed one half of the Year in one Parish, and the other half in another, the Tythe shall equally be divided between the two Parsons, and so proportionably for any greater, or less time; provided it be 30 Days but for less time than a Month, no Tythe is payable. *Ibid. C.*

If Corn, or other *Predial Tythes* grow in a Field which is divided between two Parishes

the Owner has nothing to do, but fairly to set out his Tythe. If one of the Parsons take more than his due, the Owner is not accountable for that, but he who did it. C. 54. p. 478, 481.

W O O D.

By Stat. 45 Ed. 3. c. 3. No Tythe is due of great Wood, of the age of twenty Years, or of greater age. By great Wood is commonly understood, Timber for building Ships, and Houses; such as Oak, Ash, Elm, and in Buckinghamshire Beech is accounted Timber, and pays no Tythes. *Watsf.* c. 49. p. 444. But Willows, Hasels, Holly, Maple, Birch, Alders, Thorn, and all Coppice, or Underwood of what age soever is Tythable. *Ibid.* 445. But if they are for Fewel in the Owners Houses (being Farm-Houses in the same Parish, for the maintenance of Husbandry) or Wood used for fencing the Owner's Corn, they are not Tythable, without special Custom; except it be given or sold, for then it shall, it seems, pay Tythe. *Ibid.* 444.

Wood used for Hop-Poles in the Parish, where the Parson, or Vicar hath Tythe of Hops, shall pay no Tythe. *Ibid.*

If Oak, Ash, Elm be cut, and under twenty Years growth, they shall pay Tythe, as *Sylvacdua*. And so if a Timber-like Tree be lop'd under 20, it shall pay Tythe for that one time, but not when 'tis lop'd again, and is above



above 20. *Godol. ibid. T.* But there is a Precedent. *Watsf. c. 49. p. 444*, that a Timber-Tree once lopt, and paying Tythe, when under-age shall continue to do so: But I fear it is not to be depended on.

No Tythe shall be paid of the Roots, Barks or Shoots of Timber-Trees; and this tho' the Tree itself be grown rotten, and fit for nothing but the Fire. *Godol. ibid. T.*

If Wood-Ground be mixt with Woods Tythable, and Woods not Tythable, and the greater part be such as are not Tythable, it shall Privilege the rest; and so, *è converso. Watsf. ibid. 445.* But if a Man cut down Trees which have born Fruit, as Apples, Cherries, &c. whereof Tythe hath been paid, no Tythe shall be paid of Fagots, or Billets of the Trees. *Ibid. 447.*

Of Nurseries of young Trees sold, and to be transplanted into other Parishes, Tythe shall be paid. *Godol. ibid. N.*

The manner of paying Wood in kind is, either by measuring out the tenth part of the Ground, the tenth Rindge, or the tenth Load or Fagot, according to the Custom of every Country.

If a Coppice, or Hedge-row be grubbed up, in order to convert the Ground to Tillage, Tythe shall be paid not only of the Branches, but Roots: But if the Wood be first cut down, and Tythed, and then afterwards the Roots grubb'd up, 'tis said, Tythe shall not be paid of the latter. *Godol. c. 49. p. 441.*

Tythe shall likewise be paid of Heath, and Broom, *Ibid.* without a Custom, or Discharge to the contrary.

They who take, or carry away the Tythe, *Stat. 2, 3 Ed. 6.* without first making Satisfaction to the Parson, are liable to the Forfeiture of double, or treble Damages.

If the Owner pretend that he had sold the Corn or Wood to another, and that he carried it away by his Order, yet still the Owner may be sued: Because (says the Law) this was done to defraud, *Watf. c. 54. p. 479.*

At Common Law, the Parson may sue either the Buyer, or Seller. *Parson's Couns. p. 196.*

If a Man cut Wood for burning Bricks, for the necessary Habitation of himself and Family, within the same Parish, it shall not pay Tythe: But if it be for the Enlargement of his House, for Pleasure and Delight, Tythe shall be paid. *Watf. c. 49. p. 443.*

A portion of Tythes in one Parish may belong to the Parson or Vicar of another Parish, whether by any Ancient Custom, or Composition, or by Grant of the Parson, Ordinary, and Patron. See *Chap.*

### H O U S E S.

Tythe of the Rent of Houses not due of Common Right, and yet has anciently been paid in some places, and is by *Lyndwood* call'd a *Predial Tythe*. *L. 1. T. 3. c. Nullus. v. Fructus;* and by *Stat. 2, 3 Ed. 6. c. 13.* there is a special

*Pro-*

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*Proviso* for the *Inhabitants* of London, Canterbury, and other Towns, which used to pay Tythes by their Houses: And other Acts were made for securing this Payment to the City-Clergy: But by *Stat. 22, 23 Car. 2.* these Tythes are reduced to certain Annual Sums Quarterly paid: And every ancient City and Borough hath for the most part such custom, *de Modo Decimandi*, for their Houses, for the Maintenance of their *Parsons*. See *Watf. c. 46. p. 388.*

### M I L L S.

Tythe of Corn-Mills erected since 9 *Ed. 2. c. 5.* shall be paid. The reason why this is called by some *Canonists* a *Predial Tythe*, is I suppose, because the Toll-Corn, whereof Tythe is to be paid, is the Fruit of the Earth; tho' others will have it a *Personal Tythe*, as being the tenth part of the Profit which the Miller gets by his Labour, and the working of his Engine.

Sir *S. D.* says, the tenth Toll-Dish is no where paid, and that 'tis only a *Personal Tythe*, and must be paid with the deduction of Expenses and Charges. *P. 211.*

If a Mill have used to pay Tythe, it shall be presum'd that it was erected since the 9 *Ed. 2.* and if it have not formerly paid Tythes, it shall be presum'd that it was erected before that Act; and consequently no Tythes shall be paid, unless the contrary can be proved.

If

If a new Mill be erected, tho' it be on Land discharged of Tythes by the 31 H. 8. 13, yet the Mill shall pay; and if a Mill be erected on Land, for which a certain Sum of Money by way of *Modus* has been paid time out of mind, it has been adjudged, that no Tythe shall be paid for the Mill. Dr. *Watson* argues for the Legality of the first Case, and against that of the latter. C. 51. p. 461.

If there be a surmise of a Custom, that such a certain Rate is to be paid for all Mills in such a place, this Custom will hold for the old Mills, but any new Mill there erected, shall not be privileg'd by this Custom; and yet when this Custom has prevailed in two Hundreds, tho' in several Counties, it has been held a good Custom: But these last Mills were erected for the use of common Bakers.

Fulling-Mills, Paper-Mills, &c. do of common Right pay no Tythes, but by Custom they may: But then it shall be intended only a *Personal Tythe*, in consideration of the Art and Labour of the Owner. *Godol. M. c.* 33. And yet sometimes it hath been adjudged, that the tenth *Peny* of the *Profit* of such Mills should be paid. *Ibid.*

If two Fulling-Mills be under one Roof, and a Rate-Tythe paid for them, and they be converted into one Corn-Mill, the Rate is gone, and Tythe due, as for a New Mill.

If the Stream which turn'd two Water-Mills, for which 6 s. 8 d. was yearly paid, changed its course; and one of them was rebuilt in the place

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place where the Stream now runs; the Ancient *Modus* was held to be good, but the Court declared it had been otherwise, if the Stream had been turn'd by the Owner. *Ibid.*

Tythes may become due to a Parson, for Profits received from a place that is not within his Parish; for by *Stat. 2, 3 Ed. 6. c. 13. Tythe of Cattel feeding in a Waste, or Common, where the Parish is not known, shall be paid by the Owner of such Cattel, where he dwells.*

P E R S O N A L T Y T H E.

All *Personal Tythe* is due to the Parson of the Parish where the Party dwells, tho' he go into another Parish to exercise his Art, or Industry. So the Tythe of Fish, or any other Game caught at any other place, belongs to the Parson where the Fisher or Fowler dwells; unless he paid for leave to fish or fowl: For then by the Canon Law Tythe is due where it is caught.

But *Personal Tythe* shall only be paid, where they are due by Custom: And where they are due by Custom, 'tis only the *Tenth Part* of the clear Gains, all Charges and Expences deducted. *Stat. 2, 3 Ed. 6. c. 13.*

Fish taken at Sea are by the said Statute Tytheable, according to the Custom of the place where they are landed, and not otherwise; and where no Tythe has been paid of Fish, none can by Law be claim'd.

*Pre-*



*Prescription against paying TYTHES.*

Monasteries might, and Church-Men now may prescribe *de non Decimando*; and all Lands of Religious Houses which came to the Crown by 31 H. 8. c. 13, which before their coming into the King's hands, were discharged from Payment of Tythes, shall so continue: And by this Act was given to the King all Monasteries, Priories, &c. of above 200 *l. per Ann.* which were near 200 in number, a Catalogue of which you may find in Degg, Dugdale, Speed, Wat-son; and these Lands are to this day exempt from Tythes, in whose hands soever they be.

But the Lands of those Religious Houses which came to the Crown by 27 H. 8. c. 28, and which were those that did not exceed the value of 200 *l. per Ann.* when they came into the hands of the King and his Patentees, were adjudged to have lost this *Privilege* of being exempt from Tythe; because there were no express words in the Act to discharge these Lands from Tythes, tho' they were by the Act given to the King, in as large and ample manner, as the Abbots, &c. had the same. Of this see *Watsf. cap. 48. pag. 413, &c.* and Sir S. D. gives it for Law, that the Lands of the Religious which were given to the Crown 32 H. 8. are not freed from Tythes. *P. C. p. 280.*

The Queen may also prescribe *de non Decimando*, and so may her Farmer, or Lessee,

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see, but not her Feoffee. *Watson, cap. 47. pag. 405.*

*Prescription against paying TYTHE-WOOD,  
by Local Custom.*

A Country may prescribe, as the Law-Books tell us, *de non Decimando*, as to some particular Matter; so the *Weald* of *Kent*, and *Suffex* have a Prescription against paying Tythe of Wood: And yet there is a Precedent exprefs for the Payment of Tythe-Wood there, by the Judgment of *Coke*, and the other Justices of the King's Bench, 12 *Jacob. Watf. c. 49. p. 446.* But, it should seem now the Prescription against paying Tythe-Wood in those Countries is establish'd: The occasion of this Custom seems to have been this, that the Tythe of Wood in those places was of so little value, that it was not thought worth demanding, or receiving; and that it was most for the Interest of the Clergy, to encourage the cutting down, and grubbing the Wood-Lands, that so they might have the greater Advantage of the Land, when converted to Tillage or Pasture. For it is certain that this Country was one continued Wood, and that of 120 Miles in length, and 30 in breadth, if we may believe the *Saxon* Chronologer, *ad annum Christi 893.* See *Camden*, in *Suffex*.

Some indeed, to make this Custom seem more reasonable, and make way for more of this sort, have said without any reason for it, that

that Tythe of Wood is not due *Jure communi*; they would have it, that 'twas never paid till the time of Archbishop Stratford; who made a Canon for it 1342; whereas he, in that very Constitution says, 'twas only *some* of his Provinces that with-held these Tythes, and that *they were notoriously due.* L. 3. T. 16. c. *Quaquam.* He adds indeed, that they pleaded *Custom*; and therefore it is probable that he means the People in *the Weald*, which by this time was generally cultivated, and inhabited, and part of which was in his own Diocese.

And 'tis a mistake to think that this was the first Constitution to this purpose, Archbishop Winbelsley near 40 Years before, in his *Constit. Sanct.* L. 3. T. 16. had decreed Tythes to be paid *de Proventibus Boscorum, — Arborum, &c.* and they who will suppose that this was the beginning of Tythe-Wood, may by the same reason affirm, that Tythe of Milk, Cattel, Wool, Flax, Grain, &c. had never been paid before; for they likewise are by this Constitution required to be paid. So that I see no reason to doubt but that Tythe hath been paid of Under-wood, as long as any other Product of the Earth, and by the same Law, and Reason; save only that in Countries which abounded, or were over-grown with it, the Clergy at first would not, and therefore now are not by the Temporal Laws permitted to receive it.

It is indeed most probable, that Tythe of Timber-Trees never was due *Jure Communi*,  
and

and that therefore the *Statute* 45 *Ed.* 3. is but an Affirmation of the Common Law of the Realm. Nor were the two Constitutions afore-mentioned so understood by the *Canons*, as if by them Tythe were to be paid of Trees used for Building. See *Lyndw. in Gloss. c. Sanctæ, v. Arborum*. Perhaps indeed some by mistake might demand Tythe of Timber-Trees, as supposing they were favor'd in their Demands by those Constitutions; and this might be the occasion of the Statute, which was made about 29 Years after *Stratford's* Constitution.

It has been before observed, that two Hundreds have, by our Temporal Courts, been allow'd capable of prescribing against paying Tythe of a Mill newly erected, and from which therefore Tythe was due by Act of Parliament. A strange Judgment.

A Man being sued for Tythe of Ew-Milk, alleged, that no Tythe of Ew-Milk, by the custom of the Country, had been paid in the Memory of Man, and so had a Prohibition granted him. *Watf. c. 50. p. 450.*

### COMPOSITION REAL.

A Lay-Man might be discharged of Tythes by *Composition Real*; which is, when the Incumbent, with the consent of Patron and Ordinary, under Hand and Seal, agrees that certain Lands shall be discharged from Tythe in kind, by reason of some Recompense to the Incumbent in Money, or otherwise; and such Composition shall bind the Successors:

But

But since the 13 *El. c. 10.* no such Composition can be legally made.

A Grant of Tythes from Parson, Patron, and Ordinary, without any Recompence or Consideration, is good, and shall save a Man from paying Tythes; but it must be well proved; for if it run into *Prescription*, it dies. *Watf. c. 47. p. 407.* And now by 13 *El.* no Grant may be made.

Parishioners may prescribe against the paying Tythe of some one thing, as Wood, by alleging, that the Parson and his Predecessors have had such Lands in recompence of such Tythes not paid in the memory of Man; and it is not necessary that they shew how, or by what Title the Parsons had the Land; but if they had it in any other manner, than as a Satisfaction for such Tythe, the Parson himself ought to shew that. *Watf. c. 47. p. 409.*

So that tho'tis said, a Lay-Man cannot prescribe *de non Decimando*, yet if he have any of the Abbey-Lands, given to the Crown by the 31 *H. 8.* and which were exempted from paying Tythe before they came to the Crown. Or if he be the Queen's Tenant, he may prescribe against paying any Tythe of such Land as he holds by these Titles; and from some particular Tythe he may be freed by the Custom of the County, or Hundreds, in which he dwells: And a Parish, or Hamlet may be excused from paying Tythe of some particulars, by surmise of some Compensation made to the Parson, if such Tythe have not been paid time out of mind.

The



The Canon Law allowed no Agreement for Tythes to be good *for the time to come*, without consent of the Ordinary; however, not except what was paid were to the full value of the Tythes, or *in Commodum Ecclesie*: But when good-natur'd Incumbents were prevail'd upon, tho' contrary to the Canon Law, to make disadvantageous Compositions with their Parishioners, tho' the Spiritual Courts would have no regard to these Agreements, yet so long as the Clergy-Man sat down contented with the imprudent Bargain that his Predecessor had made, the Remedy which the Canon Law provided was to no purpose: Till at last this Temporary Agreement grew into a Custom, and the Common Law made it unalterable, and prohibited the Ordinary in such cases to proceed, and give the Clergy-Man his Ancient Right; and thus thro' the easiness of their Predecessors, the present Incumbents have only a Feather, where a Goose was formerly due; and in many places the Incumbent scarce receives the Tenth of the Tenth in real Value: And this is a growing Evil, considering how the Value of Money has been sinking for 200 Years last past, by reason of the great Increase and Abundance of it: And so the Prosperity of the Nation, may prove the Bane and Impoverishment of the Clergy, by reason of these most unreasonable *Modus's*. The Bishops foresaw the ill Consequence of these Compositions, but the Clergy did not, and so neglected to use that Caution which their Superiors gave them. Now indeed  
the

the Spiritual Courts do allow of *Modus's* too. *Watf. c. 57. p. 5.* For it is in vain to contend, when they are so much over-match'd.

Any Parish, or Person may prescribe to pay a *Modus* in lieu of Tythes in kind, either in Money, or any other thing; and tho' the *Modus* be not paid, yet cannot the Parson sue for Tythes in kind, but for the Money, &c. *Godol. c. 33. M.*

If a Tenant do pay Tythe in kind, yet this shall not extinguish the *Modus* as to the Landlord, or Lessor. *Ibid.*

If a *Modus Decimandi* be for Hay, and the Party soweth the same with Corn seven Years together, and pays Tythe of his Corn in kind, this shall not destroy the *Modus Decimandi*, but the same shall continue, when 'tis again laid down for Hay. *Ibid.*

And generally speaking, these *Modus's*, when they are grown so old, as that no Man living can be found, who will testify the knowledge of the contrary, cannot be set aside. But I will give some Instances of them, which have not been allow'd to be good in Law.

If a Prescription be laid, to pay a *Modus* for 100 Acres, or for several things, and there be a Failure in one Acre, or one thing, it is a Failure of the whole Prescription. *Ibid.*

A *Modus* paid to the Parson shall not be a Discharge of Tythes, as to the Vicar: *Ibid.* Whether a *Modus* to the Vicar be a Discharge against the Parson. See *Parson's Cours.* pag. 259.

To

To surmise, that on consideration of paying Tythes of Corn, and Hay, and other things, in other parts of the Parish, that therefore the Parishioners are privileged from paying Tythe of Rough-Hay growing in the Marshes, was not allowed to be a good *Modus*; for this was in effect, a *Modus de non Decimando*. *Watsf. c. 47. p. 406.*

When one prescribed, that he expended the Profits of his Land in repairing the Church, &c. this was held no good Prescription; and 'tis a general Rule, that *no Modus is good, but when something is paid, or done for the benefit of the Parson, or him who demands the Tythe*. *Watsf. c. 47. p. 409.*

If a Man prescribe to pay one Penny, or *therenabouts*, for the Tythes of every Acre of Arable Land, or 4 s. for every Days Plowing of Wheat, in both cases the *Modus* is naught, because of the uncertainty. *Watsf. c. 47. p. 410.*

When the *Modus* is special, as for Hay, it will be destroyed, if the Ground be converted into a Hop-Garden, or Tillage. *Ibid. 411.*

A Prescription to pay certain Sheaves of Corn, in lieu of all Tythes of Corn, was adjudged not to be good: And yet when one did surmise to pay in one part of his Land, the third part of the Tenth; and in another half for all manner of Tythes, this has been held a good Prescription, *Watsf. c. 49. p. 436.*

It is said to have been adjudged, that if one prescribed to pay the Tenth part of Corn in the Sheaf, for the Tythe of all that is in the Sheaf

Sheaf, and of all that is raked, it is a void Prescription; because Tythes ought to be paid of both. *Ibid.* 437. And yet it has often been adjudged, that Rakings are not Tythable, except more than is necessary be fraudulently left.

A Prescription to pay the Tenth Part of Corn, and upon that account to be quitted from paying Tythe of Hay growing upon the Head-Lands, is void: But it seems a Prescription not to pay the Tythe of Hay growing upon the Head-Lands is good without any Consideration, if the Head-Lands be but big enough to turn the Plough. *Ibid.* 439.

A Custom to pay Tythes in kind for Sheep, if they continue in the Parish all the Year, and but an Halfpeny for every one sold before Shearing-time, was held an unreasonable Custom. *C. 50. p. 453.*

A Prescription, that the Parishioners shall for the Tythe *sine visu, sine tactu*, of the Parson, is not good. *Ibid.* 452.

A *Modus* to pay a Tythe-Calf, or 2 *d.* for every Milch-Cow, and 1 *d.* for every Calf, in discharge of Tythes of all other Cattel, is not good. *Parf. Couns.* p. 255. But 'tis good for the Calves, and Milk. A Suggestion that a Parishioner has spent all his Hay on the Beasts of the Plough, shall not free him from paying Tythe-Hay. *Ibid.* 256.

A Suggestion, that all Occupiers in such a Village have used to pay 2*s.* 6*d.* in-full of all the Tythes of the said Village, was by the Court held not to be good; but if it had been that

*quilibet Occupator* had used to pay any certain Sum, it had been good. *Watf. c. 46. p. 389.*

When it was alleged, that a Load of Hay used to be paid for all Tythes of Hay growing upon certain Land; and farther, that they used to make their Grass into Hay by their own Labour, this was held no good *Modus*: For that the Parishioner ought to make the Grass into Hay, and this is but Tythe in kind; and yet it has been held, that to make the Parson's Hay, is more than the Parishioner is bound to, and may be a Consideration of discharge from some other thing. *Watf. c. 49. p. 440.*

### PARKS DISPAK'D.

If ten Shillings, or any certain Sum of Money be yearly paid for a *Park*, and afterward the *Park* be converted to Tillage, the *Modus* is gone, and Tythe shall be paid in kind: But if the *Modus* were paid for *so many Acres of Land contained in the Park*, the *Modus* still holds; and so it is; if it be paid for *such a particular Park*, says *Watson*. But Sir S. D. reports the Case to the contrary. *Pag. 258.*

If a certain yearly Sum be paid for the *Deer* and *Herbage* of the *Park*; this *Modus* ceases, when 'tis plow'd for Corn, &c. But if the Money were paid for *all the Tythes* of the *Park*, the *Modus* still holds, and no Tythes are due in kind.

If the *Modus* be to pay *two Shillings*, and the *Shoulder of every Deer* that is kill'd in the *Park*,



it has been adjudged, upon its being dispark'd, to pay Tythe in kind; but when the *Modus* was to pay *two Shillings, and the Shoulder of every third Deer*; it was argued by the Judges, whether this *Modus* ceased upon converting the Park to Tillage, but they came to no Resolution.

If the *Modus* be to pay a Buck and a Doe out of *that same Park* which is now dispark'd, the *Modus* is gone; but if only to pay a Buck and Doe *at large*, the *Modus* remains, tho' the Park be dispark'd. See the aforesaid Cases, *Godol. c. 33. p. Watf. c. 47. p. 411, 412.* were you have all these Cases concerning *Parks*.

And if there be no *Modus* paid for the Park, then the Case seems very clear, that Tythes shall be paid when 'tis converted to Tillage. For the reason why it did not pay before, was not, because the Soil was discharged, but because Deer are said to be *fera natura*, and therefore don't pay Tythes of common right; and what is said of Parks, may be apply'd to *Warrens*.

## MORTUARIES.

The second best Animal was of old paid upon the Death of any Person to the Incumbent, in Satisfaction for all Tythes designedly, or undesignedly s ubtracted by the Deceased during his Life-time: But now, by *Stat. 21 H. 8. c. 6.* "No man shall pay a Mortuary, except he dy'd possess'd of Goods to the value of ten Marks. If he have ten Marks, but

- “ under 30 *l.* he shall pay but 3 *s.* 6 *d.* if
- “ above 30, and under 40 *l.* then 6 *s.* 8 *d.* if
- “ above 40 *l.* then he shall pay 10 *s.* but no
- “ where more than hath been accustomed.

If the Parson sues for Tythes, from which the Land, or Person he sues are discharged by Law, yet no Action of the Case lies against the Parson for bringing such Suit, if the Suit be commenced in a proper Court, and in due Form of Law. *Watf.* c. 47. p. 400.

### LEASE of TYTHES.

It has been adjudged, that an Ecclesiastical Rector or Vicar may Lease any Portion of Tythes for one Year by Word of Mouth; but if the Agreement be for more Years than one, then it is wholly void, even as to the first Year; and so 'tis, if such Contract be made before the Owner have sow'd his Corn; and the Lay-Parson shall not Lease his Tythe for one Year, without Deed. Yet a Contract without Deed, that the Owner shall retain his own Tythes for divers Years, is good. Nay, and 'tis said, a Parson may Lease his Rectory consisting of Glebe, and Tythes by Parole for Years; for then the Tythes pass as annex'd to the Rectory. *Watf.* c. 42. p. 338.

By Stat. 29 Car. 2. All Leases not exceeding the term of three Years, and by which the Rent reserved to the Landlord shall amount to two third parts of the full improved value, are excepted out of that Act, whereby Leases by Parole are declared to have the Force and Effect of Estates at Will only.

only. But such Leases as were void in Law before making this Law, do not seem to be of greater Force than before.

If a Parson shall let his Glebe for *so many Years as he shall be Parson of the Church*, it shall be void for the Uncertainty, says my Lord Coke; and this is especially true, in relation to Tythes: And tho' the Law in this Case does not seem very clear, yet thus much may I think be depended upon, that a Contract to retain Tythes for the Parson's Life by *Parole* only, is void. See *Watf.* cap. 42. pag. 337, 338, 339, 340.

It were much to be wish'd, that where Tythes are compounded for Money, as Small Tythes are, for the most part, throughout the Kingdom, the Incumbents had taken Care to have their Agreements formally drawn by way of Lease, between themselves and their Parishioners, and renew'd every three or five Years; for this had been one way to prevent the growth of *Modus's*. For when a certain Sum has for 20 or 30 Years together been paid for a Farm, the Parishioner insists upon it as an Immemorial *Modus*; and tho' perhaps the Vicar may find, by his Predecessor's Accounts, or otherwise, that the Composition was made within Memory of Man, yet it may be impossible for him to get *Living*, or other *Legal* Evidence for it; and so the Composition grows into a *Modus*. Whereas when Tythes are let by Lease, at the Expiration of the Term, the Vicar may bring his Parishioners to New Articles, or else take Tythe in Kind.

## OFFERINGS.

Not only by Canon Law, but by *Stat. 27 Hen. 8. cap. 20. 2, 3 Ed. 6. cap. 13.* Offerings are due from the Parishioners to their Minister; *viz. Where there is a Custom of Paying them*; these Offerings are,

1. Occasional, as for Churching, Marrying, Burying.

2. Constant, and Stated, that which by Custom becomes due at *Easter*, but formerly was paid at four several Festivals in the Year; *viz. at the three Great and Solemn Feasts, which we still observe, and on the Feast of that Saint to which the Church was Dedicated, which was commonly called the Wake, or Feast of such a Parish.* "But after finding  
 "that so many Holy-Days brought no small  
 "Detriment to the Commonwealth, it came  
 "to pass, that generally these Wakes, or Feasts  
 "of Dedication, were respited till the Sunday  
 "following, as we now observe them, says  
*Dr. Heylin, Hist. Sab* They are still kept, as  
 Times of *Pleasure and Entertainment*, in some  
 places on the Monday following. But the  
 Devotion of this Feast is every where laid  
 aside in *England*; whereas in the *Protestant*  
 Church of *Zurich*, there is a *Prayer* provided  
 for this Day. See *Tig. Liturgy*, in *English*,  
 1693.

It has of late been disputed, on what account the *Easter-Offering* becomes due? I take *Bishop Stillingfleet's* Judgment to be the best,

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best, viz. *That 'tis a Composition for Personal Tythes due at that Time.* Eccl. Cases, pag. 252.

It is certain, that if this be not a *Personal Tythe*, there is no such Tythe now paid in *England*; except you will reckon Tythe of *Mills* merely *Personal*, and except those *Modus's* for Fish caught at Sea, which are paid in some few places; and *Easter* is the time when all *Tythes* are to be paid, for which there is no other time by *Law* allotted. See *Rubr. Post Com.*

I am confirmed in Bishop *Stillingsfleet's* Judgment, when I consider, that what was originally called an *Offering*, or *Oblation*, in proportion to the Rent of the Houses in the City of *London*, is, and has time out of mind been called a *Tythe*; and that even by the Acts of Parliament made on this occasion, viz. 2, 3 *Edw. 6. c. 13.* 37 *Hen. 8. c. 12. 22, 23* Car. 2. 'Tis true, *Lyndwood* earnestly endeavours to prove, that they were *Predial Tythes*, L. 3. T. 17. c. *Sancta, v. Negotiationum*; and that therefore they ought to pay Offerings besides: But 'tis plain by his Arguing, that the Stream of Authority was against him in this particular; and I think that his Arguments are far enough from being unanswerable; especially since he owns that they were called *Offerings*, and were by *Law* to be made on the several Sundays and Feasts with Vigils, at the Rate of an Halfpenny in the Pound-Rent; which came exactly to 2 s. 6 d. in the Pound, which is the *Proportion* mention'd 37 H. 8. And instead of enlarging on this particular, I shall



only observe the Absurdity that *Lyndwood* runs upon, out of an honest Zeal for the City-Clergy. *viz.* that it was a *Predial Tythe*; which is as much as to say, that *Houses grow out of the Earth*; for no other *Tythes* are *Predial*, but what are produced out of it: And it should seem by *Somner*, that the Case of the Churches at *Canterbury*, is the same with that of those at *London*.

However, the Opinion of those who take *Easter Offerings* to be paid for the *Sacrament*, is less tolerable than that of *Lyndwood*: For this is directly contrary to the Intention of many Ancient Canons, which called this *Simony*. I am sensible, that the Canonists with their *Fetches* taught the Clergy to evade these Canons, as particularly by telling them, that tho' they might take nothing for Baptism, yet they might sell the *Water*, before it was consecrated, to the *Parents of the Child*. *L. 5. T. 2. c. 1. v. Baptismus*. And they might with as much Reason say, that tho' Money might not be given for the *Eucharist*, yet the *Host* before Consecration might be purchased by him who was to receive it: But *Sacraments* are to be administered freely, and *ex Officio*. It may indeed be pretended, that if a Clergy-Man go to a private House to administer a *Sacrament*, he is to be paid for his Journey; which may seem a better Shift, than that of being paid for the *Water*: But if he go to Baptize a Child like to live, and expect Pay for it, then the Presence of being paid for his Journey, is worse than that of being paid for the *Water*: For  
then

then he expects Pay for acting contrary to his Duty, to his Promise of Conformity to the Rubric and Canons; for by these he is bound to *Baptize after the last Lesson at Morning Prayer, or after the last Lesson at Evening Prayer,* excepting in Cases of Necessity.

And if Offerings are a Composition for Personal Tythes, as they seem to be, then are they not to be paid by Day-Labourers, 2, 3 *Edw. 6.* nor by Servants in Husbandry. *Watf. c. 51. p. 458.*

" By *Stat. 7, 8 W. 3.* if any Person, who  
" for 20 Days after a Demand has been made  
" of any Small Tythes, or Offerings, neglects  
" to pay the same, if they be not above 40 s.  
" per *Ann.* from one single Person, Complaint  
" may be made in Writing to any two Justices of the Peace in that County or Liberty;  
" so neither of the Justices be Patron, or any  
" ways concerned, or interested in the said  
" Tythes.

" The Justices having summon'd the Party  
" to appear, by Writing, under Hand and  
" Seal, at some certain Time and Place, shall  
" proceed to examine the Complaint, and give  
" Judgment in Writing under Hand and Seal.

" If the Party do not appear, Oath must be  
" made that the Summons were serv'd, and  
" then the Justices of the Peace shall proceed  
" to hear, and determine the Complaint, and  
" give Judgment, as before.

" If the Party so condemned, do for ten  
" Days neglect to pay the Sum adjudged by  
" the Justices, then a Distress is to be made

K 5 by

“ by Warrant from the Justices to the Consta-  
 “ ble and Churchwardens; who after having  
 “ kept the Goods distressed for three Days  
 “ may sell the Goods, if the Sum adjudged  
 “ and Costs, (which the Justices are to deter-  
 “ mine, and are not to be above 10 s.) be not  
 “ paid, and to return the Over-plus to the  
 “ Owner.

“ None are to be prosecuted for this Act, for  
 “ more than two Years Arrears.

“ An Appeal is allow'd to the next Genera  
 “ Quarter Sessions; but if the Appellant be  
 “ cast, he shall pay Costs, at the Discretion of  
 “ the Justices. Proceedings by this Act are not  
 “ to be removed, or superseded by any Writ  
 “ from any Court at *Westminster*; except the  
 “ Title of the Tythes be question'd.

“ If the Parishioner pretend a *Modus* or *Pre-*  
 “ *scription*, he shall give sufficient Security to  
 “ pay all Costs and Damages, in case he be  
 “ cast at Law; and then the Complainant  
 “ may sue him in any proper Court. An Ex-  
 “ cellent Clause.

“ He that hath su'd for Tythes in any othe  
 “ Court, has no Remedy by this Act for the  
 “ same Matter.

This Act is made perpetual, by 3, 4 c  
 Queen *Anne*.

The like Remedy is to be us'd against *Qua-*  
*kers*, for any sort of *Church-Duties* not exceed-  
 ing 10 *l.* but this last is a *Temporary Act*, to  
 continue 11 Years from the making of it  
 which was 13 *W.* 3.

C H A P. XXV.

*Of the separate Rights, of Parson and Vicar.*

**D**E *Jure Communi*, all the *Tythes* and *Profits* of the Church, belong to the *Parson*; what the *Vicar* claims, must be either by *Endowment*, or *Prescription*.

The *Endowment*, is the Original Agreement betwixt the *Monastery*, or other *Religious Body* to which the Church of old belong'd, and the *Vicar*; made by Consent, or Appointment of the *Bishop*, and sometimes called *the Ordination of the Vicarage*. If that Religious Body be now in being, as all the Old Cathedrals are; or if the *Impropriation* were, at the Dissolution of the *Monastery*, given to any *Dean* and *Chapter* that now is, the most probable Place to find the *Endowment* of it, is in the *Archives* of that Church; if not, you may consult the *Augmentation-Office*. But most *Endowments* are now lost.

And therefore if a *Vicar* cannot produce an *Endowment*, yet if he prove constant *Usage*, and *Payments*, that is sufficient. *Watf. c. 39. p. 304, 305.*

And if the *Endowment* do appear, and no mention any *Glebe*, or *Tythe* belonging to the *Vicar*, yet if the *Vicar* by constant *Usage* hath enjoy'd them, he shall not be concluded by their not being mention'd in the *Endowment*: For it shall be presumed, that  
some

some Composition has been since made, or that the Bishop by his Power, has since augmented the Vicarage. *Watf. Ibid. p. 305.*

The Distinction of great and small Tythes, does no great Service in determining the Rights of Parson and Vicar. For the Vicar, in most places, has some great Tythes, as Hay, or Wood, and (perhaps) some portion of Corn-Tythes; and on the other side, the Parson often has some of those Reputed small Tythes; as Hops, Flax, and in some parts of the Parish, and sometimes through the whole Parish, all manner of Tythes: Only, if it do appear, that the Vicar be Endow'd *with all small Tythes*, then the Parson can have no other Tythes, but those of *Corn, Hay, and Wood*: For I do not find, that any others are by any Law reckon'd great Tythes. *Watson*, indeed says, that *Hops* in *Kent*, have been adjudged great Tythes, when Planted in a large Quantity of Land; but he argues against the Justice of the thing; and to prove, that the Quantity alters not the Property, shews that a Field of Forty Acres of *Saffron*, has been adjudged small Tythe. *Ibid. 306.*

And if small Tythes be, by the Endowment, granted to the Vicar, and the Parson doth by Custom, or Prescription, take the same, yet the Vicar may recover his small Tythes at Common Law. For 'tis a settled Rule that *the Parson cannot prescribe against the first Endowment*. *Ibid. p. 307.*



*Altaragium*, a word frequently us'd in Endowments, imports, not only what is now called *Offerings*, but sometimes all small Tythes commonly paid to the Vicar. *Watsf.* cap. 39: pag. 307.

The Tythes of Clover-grass, or such-like, shall go to him that hath Tythes of Hay. *Ibid.* pag. 307.

Woad, Saffron, Wield, are all small Tythes, and go to the Vicar, if he, by Endowment or Prescription, have small Tythes. *Watsf.* *Ibid.* 306.

If only small Tythes be mentioned in the Endowment or Composition, and yet the Vicar have time out of Mind, had Tythe-wood, it shall continue to the Vicar, tho' Wood be accounted a great Tythe. *Watsf.* c. 39. p. 305. and yet it hath twice been judged small Tythe. *Parf. Couns.* p. 177.

If a Vicar have used, time out of Mind, to have all Tythes, except Tythe of Corn, and afterwards Rape-seed is Sown in the same Parish, he shall have Tythe of that too. *Watsf.* *Ibid.* 306.

No Tythe of Glebe-Land shall be paid of common Right by the Parson to the Vicar, or by the Vicar to the Parson; for *Ecclesiae non solvit Ecclesiae*, ( but then it must be Ancient Glebe ) *Watsf.* c. 47. p. 404. and yet by special Custom, it may be otherwise, and Tythe may be paid by either to the other. See *Godol.* c. 33. G. And if the Vicar Let out his Glebe,  
it

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it shall pay great Tythe to the Parson, and if the Parson Let out his Glebe, it shall pay Vicarage Tythes to the Vicar. *Ibid*

By this last Case, it should appear, that the Glebe of those impropriated Parsonages, the Fee of which is in any Ecclesiastical Person, or Body, ought to pay Tythe to the Vicar, when Leased out, as all or most of such Parsonages are.

---

*Some*

*Some Advertisements not easily reduced to  
the former Heads.*

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*Of Publishing things in the Church.*

**T**Here are great Innovations, especially in some Country Churches, in publishing, or giving notice of the most Frivolous, Unbefitting, and sometimes Ridiculous things in the Face of the Congregation.

And as the Minister is to Publish nothing himself, but *what comes from the Quzen, or Ordinary*, or is Prescribed by the *Liturgy* (not Orders from any Justices of Peace, Commissioners, &c.) so he ought, so far as in him lies, to take care, that no one else Publish any thing during *Divine Service*.

'Tis true, Statute 6, 7, 8. *W. 3.* Clergy-Men were obliged immediately after *Morning Prayer*, to read, or cause to be read, the Rates or Assessment for *Births, Burials and Marriages*, under 5 *l.* Penalty; but the Parliament 9, 10, of the same Prince, seems to have been sensible of the Unreasonableness and indecency of having things of this nature Read amidst Divine Offices, and blending Temporal Matters with Sacred, and so Repealed this Clause of the Act; and it is to be hoped, that this Injunction will never be drawn into Precedent by future Parliaments.

*And*

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And yet the Surveyor of the High-ways is to publish his Presentments in Church, after Sermon, 3, 4 *W. & M. c. 12.*

And the Names of Persons newly come to be Inhabitants, may, at their Request, be publish'd after *Divine Service*. 'Tis not said, who shall publish it; but the Church-wardens, and Overseers, are to take care, that it be done, 3, 4 *W. & M. c. 12.*

To prevent publick Proclamation of Parish-Meetings in the Church, it is provided, by 43 *Elix. 2.* that "the Parish Officers shall have a stated time of Meeting, to adjust Matters relating to the Poor, viz. *On Sunday after Evening Service Monthly*: And upon default, they Forfeit 20 s. The Minister will do well to see this Clause put in Execution upon many accounts. But the Calling of Parish Meetings in the Church, cannot now be wholly prevented. However, sure a Minister may put a stop to what seems perfectly Scandalous; which is the publishing Hue and Cries, and Enquiries after Lost Goods in the Church. Who knows where this will end.

The Act *For the more effectual Suppressing prophane Cursing, and Swearing*, 6, 7 *Gul.* is to be Read the first Sunday after every Quarter-Day, under 20 s. penalty.

*Affidavits for Burying in Woollen.*

" By Statute 30 *Car. 2. c. 3.* The Curate  
" of every Parish, is to keep a Register, to be  
" pro-

“ provided at the Charge of the Parish, where-  
“ in to Enter all Burials, and Affidavits of  
“ Persons being Buried in Woollen, and if no  
“ Affidavits be brought in Eight Days ( which  
are to be reckon'd from the Hour in which  
the Corps was Buried ) “ he must enter a  
“ Memorial of this Default, over against the  
“ Name of the Party Interr'd, and of the  
“ time when he gave notice of this Default to  
“ the Parish Officers, which notice must be  
“ given in Writing, under the Curates Hand :  
There is no time prescribed by the Act, with-  
in which this notice is to be given ; but 'tis  
most safe to do it, as soon as the Eight Days  
are expir'd. The Curate making Default in  
any particular, Forfeits 5 l.

“ The Affidavit shall be taken by any Ju-  
“ stice of Peace, Mayor, or such-like Chief-  
“ Officer, in the Parish where the Body was  
“ Buried ; and if there be no such Officer,  
“ then by any Curate within the County  
“ where the Corps was Buried, excepting  
“ him in whose Parish the Corps was Buried.  
“ He that takes the Affidavit, must set his  
“ Hand *gratis*. The Affidavit must be Sign-  
“ ed, and Sealed by two Witnesses, who were  
“ at the making of it.

#### P O O R - R A T E S .

*Tithes*, are Chargeable to the *Poor-Rates*,  
by the 43 *Eliz.* and therefore it can't be dis-  
puted, but an Incumbent shall be charged for  
what *Tithes* he takes in kind,

But



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But if the Tythes be Let out, or Leased, then it is the Tenant's part to pay the *Poor-Rates*, as in all other Cases. And the Case is the same, if they be Compounded by voluntary Agreement.

The only Question is, concerning *Modus's*, whether they ought to be Assessed to him that pays, or him that receives them? I take it for granted, that what is paid in Money instead of Tythes, is really but an old Rent, or Composition for Tythes; and that, therefore in Reason, what is paid for the Maintenance of the Poor, ought to be paid by him, who pays the Rent. What Lord of a Mannor is Sessed to the Poor for his Quit-Rents, which are Compositions paid by those who hold Land of the Mannor, in lieu of some old Services due to the Lord, or fixt, unalterable Rents due to him, as *Modus's* are to the Parson. I don't find any Book-Cases relating to this Matter. But I fear, that in some places, poor Vicars, for want of good Advice, or for Peace-sake, or through the terror of great Neighbours, are obliged to pay to the Poor for these *Modus's*.

However, in one Case, the Law is clear, that no Parson, or Vicar, shall be Charged to the Church-Rates, for his Manse, Glebe, or Tythes.

### *Registers of Births, &c.*

“ By Statute 6, 7 *Gul. 3.* All Incumbents are  
“ to keep a Register of all Persons Married,  
“ Buried,

" Buried, Christened, or Born. The Col-  
" lectors of the Taxes on Births, Burials,  
" &c. and all other Parties concern'd in  
" that Tax, are to have free Access to view  
" the same, at all seasonable times. The  
" Clergy-Man Offending, Forfeits 100 l.

" By Statute 7, 8 *Gul.* 3. c. 35. Every  
" Curate, or Parish Clerk ( during the conti-  
" nuance of this Act, which is to *August* 1706.  
" and will probably, be continued to a longer  
" time ) " shall keep a *distinct Register* of all  
" Persons Born within their Parishes, or Pre-  
" cincts, and not Baptized according to the  
" Church of *England*. And the Parents of  
" such Unbaptized Child, are under 40 s.  
" penalty, to give notice of the Birth to the  
" Curate, and 6 d. to Enter it into his Register;  
" and the Curate neglecting so to do, For-  
" feits 40 s.

" By the same Statute, if any Person be  
" Buried in a Parish where he did not Reside  
" at the time of his Death, the Curate, in  
" whose Parish he was Buried, is to give no-  
" tice of it in Writing, within ten Days to the  
" Collectors of the Tax, where the Party  
" last Lived, under 5 l. penalty.

" By Statute 9, 10 *Gul.* 3. c. 35. The Curate  
" or Clerk, is, in his Register, to specify the Qua-  
" lity and Condition of every Person Married,  
" Buried, Christened, or Born; and upon Buri-  
" als, the Names of the Executors, or others,  
" who are to pay for the same, and where  
" they dwell; in Case of Marriages, the place  
" of the Husbands Abode: But then he,  
" who

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“ who ought to pay the said Duties, shall  
 “ give the Minister a true Account of all these  
 “ particulars; and any Minister, or other Per-  
 “ son Offending, Forfeits 20 l.

“ Any two Commissioners may Fine Cler-  
 “ gy-Men, or others, who keep these Regi-  
 “ sters, if they Refuse to Exhibit them any  
 “ Sum, not exceeding 5 l. And so they may,  
 “ in case they Refuse to shew Licenses for  
 “ Marriages, or Certificates of Banns pub-  
 “ lished.

And, besides all these, the Minister, and  
 Church-wardens of every Parish, are by the  
 Injunctions of *Edw. VI.* and *Queen Elizabeth*,  
 and by the *LXX Canon*, to keep a Register  
 of *all Christenings, Marriages and Burials*; to  
 which, if fairly Kept, and Subscribed, the  
 Common Law gives Credit.

To Sumn up all, that has, or can be said  
 on this Subject, 'tis this; that the Duty, Lu-  
 bour, Business, and Burden of the Clergy,  
 have now for some Ages been increasing; but  
 all this time their Maintenance, Privileges,  
 and Encouragements, have been in a declining  
 condition. The Clergy, in times of *Popery*,  
 were for their Ignorance, and pious Frauds,  
 Rewarded with a double portion of Wealth,  
 and Honour; and since the Reformation, for  
 telling the plain truth, they have been requi-  
 ted with Poverty, and Contempt. For I don't  
 remember any temporal Advantage, that the  
 Clergy have Gain'd in these last Ages, excep-  
 ting that of *Wives*, by Statute 2, 3 *Edw. 6.*  
*c. 12.* 5, 6 *Edw. 6. c. 12.*

But,

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But, as by this means, the Clergy-Man's Family has been enlarged ; so there has been very little done, to enable him to Maintain it, except by some private Benefactions, here and there. Till the Seventeenth Year of King Charles II. no Impropiator could, *by Law*, Restore the Tythes to the Church to which they Originally belong'd : I mean as the Laws were then understood. By an Act then made, this is permitted : And by the same Law, the Statutes of *Mortmaine* are so far Relax'd, that " any Incumbent may Receive, or Purchase " Lands, or Hereditaments, so far as to make " his Benefice 100 *l.* *per ann. de claro.* and by 2 *An.* " a Benefice wanting competent " Maintenance, may be augmented, without " Limitation. There is no great fear of Excess. By the same Act, *the First-fruits and Tenths* are given for the use of the Poorer Clergy, by which, Her present Majesty has done more for the Relief of the Clergy, than all her Royal Predecessors together, for *many* Ages past. May she long Live, and Conquer.

*Appendix.*

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# APPENDIX:

## *A Form of PRESENTATION, to a Vacant Benefice.*

**R**everendo admodum in Christo Patri, & Domino, Domino G. Permissione Divina, ----- Episcopo, ejusve in absentia Vicario suo in Spiritualibus generali, aut alii cuicunque in hac parte sufficientem Auctoritatem habenti: Prænobilis *A. C.* Baro de *F.* verus & indubitatus Patronus Rectoriæ [ Vicariæ, *if it be a Vicarage*] Ecclesiæ Parochialis de *M.* Salutem in Domino sempiternam. Ad Ecclesiam Parochialem [ *or* Vicariam Ecclesiæ Parochialis, *if it be a Vicarage*] de *M.* prædictæ vestræ Dioceseos modo per mortem naturalem *N. P.* ultimi Incumbentis ibidem vacantem, & ad meam Præsentationem pleno jure spectantem; dilectum mihi in Christo *S. R.* Artium Magistrum, [ *or* Baccalaureum,] Clericum, Paternitati vestræ præsentō, humiliter supplicans, ut præfatum *S. R.* ad dictam Rectoriam [ *or* Vicariam ] admittere, ipsumque in Rectoriam [ *or* Vicariam ] ejusdem Ecclesiæ institui, & induci facere cum suis juribus, & pertinentiis universis, cæteraque omnia, & singula peragere, & adimplere in hac parte, quæ ad vestrum munus Episcopale

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pale pertinere videbuntur, dignemini cum favore. In cujus rei Testimonium, his præsentibus, Sigillum meum apposui. Data --- die O. Anno Regni Dominæ nostræ ANNÆ, Angliæ, Scotiæ Franciæ, & Hiberniæ Reginæ, Fidei Defensoris, &c. quinto, Annoque Domini 1705.

*And if the Bishop be inhibited, or the See void, yet this Presentation is good; which cannot be said of the Common Forms.*

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*A Form of a Testimonial, that the Incumbent hath performed all things, after his Induction, according to the Act of Uniformity.*

WE whose Names are under-written, do hereby certify, that C. B. Rector of F. within the Diocess of E. or County of S. on the      day of      in the year      being a Lords-day, did read in his Parish-Church aforesaid, openly, publickly and solemnly, the Morning and Evening-Prayer, appointed to be read by, and according to the Book entitled, *The Book of Common-Prayer, &c.* at the time thereby appointed; and after such Reading thereof, did openly and publickly, before the Congregation there assembled, declare his unfeigned Assent and Consent to the Use of all things therein contained and prescribed, according to this Form, *viz.* I C. B. do here declare my unfeigned Assent and Consent to all, &c. (writing the Form *verbatim*) also that he did publickly and openly, on the day and year aforesaid, in his Parish-Church aforesaid, in the presence of the Congregation there assembled, in the time of Divine Service, read a Certificate, under the Hand and Seal of the Right Reverend Father in God, G. Lord Bishop of ——— (inserting the very words of the Certificate) and after the Reading thereof, did, at the same time, and in the same place, the Congregation being present,

L

sent, read the Declaration or Acknowledgment contained in the said Certificate, viz. *I will conform to the Liturgy of the Church of England, as it is now by Law establisht.* And lastly, that on the day and year aforesaid, he did read the Articles of Religion, commonly called, *The Thirty Nine Articles agreed upon in Convocation, in the year 1562.* in his parish-Church aforesaid, in the time of Common-Prayer there; and did declare his unfeigned Assent thereto. And these things We promise to testify, upon our Corporal Oaths, if at any time we shall be duly called thereunto. In witness whereof, we have hereunto set our Hands, this              day of              in the year of our Lord ———

*J. B. T. D. N. F.*

*A Qualification for a Nobleman's Chaplain.*

UNIVERSIS & singulis præsentis Literas inspecturis, sive quos infra-scripta tangunt seu tangere poterint in futurum *Willielmus Domus H. . . . Baro de S. . . .* Salutem : Noverritis me præfat' *W. Dom' H. &c.* de vita probitate, morum integritate, & Sacrarum Literarum scientia, de quibus *Georgius Duke* Clericus, mihi commendatus existit, ipsum *Georgium Duke* in numerum Capellanorum meorum Domesticorum, ad deservendum mihi circa divina Officia, infra Ædes meas celebranda, assumpsisse, aggregasse, ascivisse, & admisisse : eumque in Capellanum meum domesticum

mesticum assumere, aggregare, asciscere, & admittere per præsentés. Quarum vigore libere liceat & licebit eidem *Georgio Duke*, Capellano meo, omnia & singula Privilegia, Beneficia, Libertates, Præheminentias, & Immunitates Capellanis Baronum & Procerum in Statutis & Legibus hujus inclyti Regni *Angliæ* quomodo concessa & elargita consequi pariter & obtinere ad omnem juris effectum inde sequi valentem, illudque Universitati vestræ attestandum fore, duxi opportunum, sicque attestor per præsentés. Dat' sub manu, sigilloque meo ad arma, vicesimo die *Aprilis*, Anno Domini 1695. Annoque Regni Regis *Willielmi Tertii*, Dei Gratia, *Angliæ*, &c. Septimo.

*A Grant of an Advowson.*

TO all to whom these Presents shall come :  
G. S. the true and undoubted Patron of the Rectory of the Parish-Church of *F.* in the County of *K.* and Diocess of *C.* Greeting in our Lord everlasting. Know ye, That I the said G. S. have given, granted, and by this my present Writing have confirmed unto *M. G.* of, &c. Esq; the first and next Advowson, Nomination, Presentation, and free Disposition of the aforesaid Rectory of the Parish-Church of *F.* with all the Members and Appurtenances whatsoever, Willing, and by this present Writing granting, That it shall and may be lawful to and for the said *M. G.* his Executors and Administrators, to the said Church, with



all Rights and Appurtenances whatsoever, whensoever, and howsoever, by Death, Resignation, Deprivation, Cession, Permutation, Dismission, or any other way, the same Church first and next shall happen to be void, any honest and learned Clerk to present, and all other things which to the said Charge or Office belonging, to do and fulfil, for the first and next Avoidance only, as fully, &c. as I my self might do, &c.

*A Donation of a free Chappel.*

**T**O all, &c. *T. B.* of, &c. Greeting. Whereas the Free Chapel of *T.* in the Diocese of *H.* is known to be void, and of right doth belong to my Gift. Know ye, That I the said *T. B.* the said Chapel, with all its Rights and Appurtenances whatsoever, have given and granted to my well-beloved in Christ *F. W.* Clerk, an honest and learned Man. And by virtue of these presents the said *F. W.* in bodily possession of the said Chapel have inducted. In witness, &c.

*A Lease of a Rectory Impropriate.*

**T**His Indenture, &c. between *C. W.* of, &c. of the one part, and *D. C.* of, &c. of the other part, Witnesseth, That the said *C. W.* for and in consideration of the Sum of, &c. the Receipt whereof the said *W.* acknowledgeth,

ledgeth, and thereof, and of every part thereof, doth acquit, &c. the said *D. C.* his Executors, by these presents, Hath demised, &c. unto the said *D. C.* and his Assigns, all that the Parsonage, Parish-Church of, &c. in the County of, &c. sometimes appropriate, united, belonging or appertaining unto the College of *C.* with all Lands, Tenements, and all manner of Tythes and Tenth, Reversion and Reversions of Tythes or Tenth of Corn, Grain, Hay, Wool, Lamb, Flax, Hemp, Honey, and all manner of predial, personal and mixt Tythes or Tenth whatsoever, yearly coming, arising, growing and renewing within the said Parish, &c. aforesaid, or in any other place or places, Townships or Hamlets to the said Rectory, Parish-Church or Chapel of, &c. belonging or appertaining, or used to be set, demised or let, as part, parcel or member of the said Rectory, Parsonage, Parish-Church or Chapel of, &c. aforesaid: To have and to hold, &c. to the said *D. C.* and his Assigns, from the day of the date hereof, for and during, and unto the full end and term of, &c. Yielding and Paying, &c. And the said *D. C.* for him, &c. doth Covenant, &c. to and with the said, &c. by these presents, That he the said *D. C.* his, &c. shall and will yearly, during the said Term of, &c. well and truly pay or cause to be paid unto the said *C. W.* &c. the said yearly Rent of, &c. by even and equal portions, according to the true intent and meaning of these presents. And the said *C. W.* for him, &c. doth Covenant, &c. That he the said *C. W.* &c.

Yielding the Rent, and performing the Covenants, which on his and their parts are to be done and performed, during the said Term of, &c. shall and may peaceably and quietly have, hold, use, occupy, possess, and enjoy the said, &c. without the lawful let, trouble or eviction of the said C. W. his Executors, &c. or of any other person or persons whatsoever, claiming or to claim, by, from, or under him, them, or any of them. In Witness whereof, &c.

*A Lease of a Parsonage for Term of Life.*

**T**His Indenture, made, &c. between F. F. Clerk, Parson, &c. of the one part, and H. H. of, &c. of the other part, Witnesseth, That the said F. F. for and in consideration of the Sum of, &c. whereof and wherewith the said F. F. acknowledgeth himself satisfied, &c. Hath demised, granted, set and to farm let, and by these presents doth demise, &c. unto the said H. H. his Executors, &c. all that his Rectory or Parsonage of P. in the County of, &c. with all and singular Houses, Glebelands, and all and singular the Appurtenances, set, let, lying and being in P. aforesaid, together with all manner of Tythes, as well personal as predial, and all Oblations, Profits, and Commodities, growing, arising, or yearly coming in or out of the said Rectory or Parsonage, (the Profits arising and coming by reason of or for any Burial, unto the said Parson

parson only excepted and reserved ) To have and to hold the said Rectory or Parsonage of P. with the Houses and Glebe-lands thereunto belonging, together with all and singular the Tythes of Corn, Grain and Hay, and privy Tythes, Offerings, Oblations, and all other Profits and Commodities accruing, growing or yearly arising, or of right belonging to the said Rectory or Parsonage, (except as before excepted ) unto the said H. H. his Executors, &c. from the day of the date hereof, for and during so long time as the said F. F. shall remain in his Natural Life ; Yielding and paying therefore, yearly and every year, unto the said F. F. or to his Assigns, the Sum of &c. of lawful Mony, &c. at the Four usual Feasts in the year ; That is to say, At the Feast of, &c. by even, and equal portions. In Witness whereof, &c.

*A Resignation of a Benefice.*

TO all Christian People to whom this present Writing shall come ; W. S. Clerk, and late Parson of the Parish-Church of T. in the County of K. send Greeting in our Lord God everlasting. Know ye, That I the said T. for divers good and reasonable Causes and Considerations me moving, Have clearly resigned and released unto the Patron or Giver of the Parsonage of T. in the said County of K. and Diocess of L. the free and ample, and clear Disposition and Gift of the same.

Parsonage ; Together with all the Right, Demand or Title, which I might, should or ought to claim or demand by any manner of means, for, touching, or in any wise concerning the same Parsonage of T. by reason either of Nomination, Assignment or Deputation thereof, at any time heretofore to me made, granted or assigned. And I the said W. S. do by these presents promise and grant, at no time or times hereafter, to make any claim or claims, challenge or demand to the said Parsonage, or to any Duties whatsoever appertaining thereunto, which might have grown due or payable unto me, by reason of the aforesaid Parsonage of T. In Witness, &c.

*The Patent about the First-Fruits, &c.*

**A**NNE, by the Grace of God, of England, Scotland, France and Ireland, Queen, Defender of the Faith, &c. To all to whom these Presents shall come, Greeting. As the Welfare and Support of the Church of England, as by Law Established, have been always Our greatest Care, so We have since Our Accession to the Crown frequently reflected on the miserable Condition of a very great Number of the Clergy of this Our Kingdom, by reason of the mean and insufficient Provision for their Maintenance in several places, which tends very much to the Ruin of this Church : And in regard that the Arrears of Tenths due to Our Exchequer, upon small Rectories and



and Vicarages, could not be answered without great Difficulties and Hardships to the poor Incumbents, and that several of those Churches (for fear of incurring the full Payment of such Arrears) were held in Sequestration by Temporary Curates, without being regularly filled with Institution and Induction; We were resolved to do as much as in Us lay, towards easing of the Clergy, and were graciously inclined to think, That the Ministers who served those Cures might, in respect of their Poverty, be true Objects of Our Royal Compassion; and that it would tend to the Honour and good Discipline of the Established Church, if those Benefices were filled with able Clerks, legally instituted and inducted: And to the Charitable Purpose aforesaid, We signed a Warrant, to authorize Our Lord High-Treasurer to discharge the Arrears of Tenths due upon the small Rectories and Vicarages, not exceeding Thirty Pounds *per Annum*, by the most improved Valuations of the same, on Condition that the respective Churches were first filled with Institution and Induction: And Our Lord High-Treasurer signified Our said Bountiful Intention, by Letter directed to Our Archbishops and Bishops accordingly: And in order to settle a Fund for increasing the Maintenances of the poor Clergy, We commanded Our Right Trusty and Well-beloved Counsellor Sir *Charles Hedges*, Knight, one of Our Principal Secretaries of State, to deliver a Message in Writing, signed by Us, to Our most Dutiful and

Loyal Commons of *England*, in Parliament Assembled, declaring, That We having taken into Our serious Consideration, the mean and insufficient Maintenance belonging to the poor Clergy, in divers Parts of this Kingdom, To give them some Ease, had been pleased to remit the Arrears of the Tenths to the poor Clergy; And that for Augmentation of their Maintenance, We would make a Grant of Our whole Revenue arising out of First-Fruits and Tenths, as far as it then was or should become free from Incumbrances, to be applied to this purpose: And if the House of Commons could find any proper Method by which our good Intentions to the poor Clergy might be made more effectual, it would be a great Advantage to the Publick, and very acceptable to Us. And whereas by an Act of Parliament, made in the Second Year of Our Reign, intituled, *An Act for the making more Effectual Her Majesty's Gracious Intentions for the Augmentation of the Maintenance of the Poor Clergy, by Enabling Her Majesty to Grant in Perpetuity the Revenues of the First-Fruits and Tenths; And also, for Enabling any other Persons to make Grants for the same Purpose;* Reciting, That whereas at a Parliament holden in the Six and Twentieth Year of the Reign of King *Henry* the Eighth, the First-Fruits, Revenues and Profits for one Year, upon every Nomination or Appointment to any Dignity, Benefice, Office, or Promotion Spiritual, within this Realm, or elsewhere within the said King's Dominions; And also

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a perpetual Yearly Rent or Pension, amounting to the Value of the Tenth part of all the Revenues and Profits belonging to any Dignity, Benefice or Promotion-Spiritual whatsoever, within any Diocess of this Realm, or in *Wales*, were granted to the said King *Henry* the Eighth, his Heirs and Successors, and divers other Statutes have since been made, touching the First-Fruits and Annual Tenths of the Clergy, and the Ordering thereof. And whereas a sufficient Settled Provision for the Clergy, in many parts of this Realm, hath never yet been made, by reason whereof, divers mean and stipendiary Preachers are in many places entertained, to serve the Cures and officiate there ; who depending for their necessary Maintenance upon the Good-will and Liking of their Hearers, have been, and are thereby under Temptation of too much complying, and suiting their Doctrines and Teachings to the Humours, rather than the Good of their Hearers, which has been a great Occasion of Faction and Schism, and Contempt of the Ministry : And further mentioning, That forasmuch as We taking into Our princely and serious Consideration, the mean and insufficient Maintenance belonging to the Clergy, in divers parts of this Our Kingdom, have been most graciously pleased, out of Our most religious and tender Concern for the Church of *England*, ( whereof Our Self is the only Supreme Head on Earth ) and for the poor Clergy thereof, not only to remit the Arrears of Our Tenths, due from Our  
 poor

poor Clergy, but also declare unto Our most Dutiful and Loyal Commons, Our Royal Pleasure and Pious Desire, That the whole Revenue arising from the First-Fruits and Tenths of the Clergy, might be settled for a perpetual Augmentation of the Maintenance of the said poor Clergy, in Places where the same is not already sufficiently provided for, (to the end that Our most Gracious Intentions may be made Effectual, and that the Church may receive so great and lasting an Advantage, from Our parting with so great a Branch of Our Revenue, towards the better Provision for the Clergy, not sufficiently provided for) And to the intent Our singular Zeal for the Support of the Clergy, and the Honour, Interest, and future Security of the Church, as by Law Established, may be perpetuated to all Ages; It is Enacted, That it shall and may be lawful for Us, by Our Letters Patents under Our great Seal of *England*, to Incorporate such Persons as We shall therein Nominate or Appoint, to be one Body Politick and Corporate, to have a Common-Seal, and perpetual Successions; And also at Our Will and Pleasure, by the same, or any other Letters Patents, to Grant, Limit or Settle, to or upon the said Corporation, and their Successors for ever, All the Revenue of First-Fruits, and Yearly perpetual Tenths of all Dignities, Offices, Benefices and Promotions-Spiritual whatsoever, to be applied and disposed of, to and for the Augmentation of the Maintenance of such Parsons, Vicars, Curates and Ministers, Officiating;

## The APPENDIX.

Officiating in any Church or Chappel within the Kingdom of *England*, Dominion of *Wales*, and Town of *Berwick* upon *Tweed*, where the Liturgy and Rites of the Church of *England*, as now by Law Established, are or shall be Used and Observed, with such Lawful Powers, Authorities, Directions, Limitations, Appointments, and under such Rules and Restrictions, and in such Manner and Form as shall be therein expressed : The Statute made in the First Year of Our Reign, Intituled, [*An Act for the better Support of Her Majesty's Household, and of the Honour and Dignity of the Crown* ] or any other Law to the contrary in any wise notwithstanding. Provided always, and it is thereby declared, That all and every the Statutes and Provisions, touching or concerning the Ordering, Levying, and true Answering and Payment, or Qualification of the said First-Fruits and Tenths, or touching the Charge, Discharge or Alteration of them, or any of them, or any matter or thing relating thereunto, which were in force at the time of making the said Act, shall be, remain and continue in their full Force and Effect, and be observed and put in due Execution, according to the Tenours and Purports of the same, and every of them ; for such Intents and Purposes nevertheless, as shall be Contained or Directed, in or by the said Letters Patents. Provided also, That the said Act, or any thing therein contained, should not extend to void, or any way impeach, or affect any Grant, Exchange, Alienation or Incum-



Incumbrance at any time heretofore made, of or upon the said Revenues of First-Fruits and Tenths, or any part thereof; but that the same shall, during the Continuance of such Grants, Exchange, Alienation or Incumbrance respectively, be and remain, of and in such Force and Virtue, and no other, to all Intents and Purposes, as if the said Act had not been made. And for the Encouragement of such well-disposed Persons, as shall by Our Royal Example, be moved to contribute to so Pious and Charitable a purpose, and that such their Charity may be rightly Applied, It is also Enacted, That all and every Person and Persons, having in his or their own Right, any Estate or Interest in possession, Reversion or Contingency, of or in any Lands, Tenements or Hereditaments, or any property of or in any Goods or Chattels, shall have full Power, Licence and Authority, at his, her and their Will and pleasure, by Deed enrolled in such manner, and within such time, as is directed by the Statute made in the Twenty Seventh Year of the Reign of King *Henry* the Eighth, for Enrolment of Bargains and Sales, or by his, her or their Last Will or Testament in writing, duly executed according to Law, to Give and Grant to, and vest in the said Corporation and their Successors, all such his, her or their Estate, Interest or Property in such Lands, Tenements and Hereditaments, Goods and Chattels, or any Part or Parts thereof, for and towards the Augmentation of the Maintenance of such

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Ministers, as aforesaid, Officiating in such Church or Chapel, where the Liturgy and Rites of the said Church, are or shall be so used or observed, as aforesaid, and having no settled competent Provision belonging to the same, and to be for that purpose applied according to the Will of the said Benefactor, in and by such Deed enroled, or by such Will or Testament executed, as aforesaid expressed: And in Default of such Direction, Limitation or Appointment in such manner, as by Our Letters Patents shall be directed or appointed, as aforesaid: And such Corporation, and their Successors, shall have full Capacity and Ability to purchase, receive, take, hold, and enjoy for the purposes aforesaid, as well from such persons as shall be so charitably disposed to give the same, as from all other Persons as shall be willing to Sell or Alien to the said Corporation, any Manors, Lands, Tenements, Goods or Chattels, without any Licence or Writ of *Ad quod damnum*; The Statute of Mortmain, or any other Statute or Law to the contrary notwithstanding. Provided always, That the said Act, or any thing therein contained, should not extend to enable any Person or Persons being within Age, or of *non-sane* Memory, or Women-Coverts, without their Husbands, to make any such Gift, Grant or Alienation; Any thing in the said Act contained to the contrary notwithstanding, as in, and by the said Act of Parliament may more at large appear. Now know ye, That We, to the end Our said  
Gracious

Gracious Intentions may be made Effectual, and that the Church may receive a Great and Lasting Advantage from Our parting with the said Revenue of Our First-Fruits and Tenth, towards the better Provision for the Clergy not sufficiently provided for, and pursuant to the said Act of Parliament, of Our especial Grace, certain Knowledge, and meer Motion, have Made, Appointed, Nominated, Constituted and Established, and by these Presents, for Us, Our Heirs and Successors, do Make, Appoint, Nominate, Constitute and Establish, Our most Dear Consort Prince *George of Denmark*, Our High-Admiral and Generalissimo of all Our Forces; the most Reverend Father in God Our Right Trusty and Right Entirely beloved Counsellor *Thomas* Lord Archbishop of *Canterbury*, and the Archbishop of *Canterbury* for the time being; Our Right Trusty and Well-beloved Counsellor Sir *Nathan Wright*. Knight, Keeper of Our Great Seal of *England*; the most Reverend Father in God Our Right Trusty and Well-beloved *John* Archbishop of *York*, and the Archbishop of *York* for the time being; Our Right Trusty and Well-beloved Counsellor *Sidney* Lord *Godolphin*, Our High-Treasurer of *England*; Our Right Trusty and Right Well-beloved Cousin and Counsellor *Thomas* Earl of *Pembroke* and *Montgomery*, Our President of Our Council; Our Right Trusty, and Right Entirely beloved Cousin and Counsellor *John* Duke of *Normanby* and *Buckingham*, Our Keeper of Our Privy-Seal; Our Right Trusty and Right Entirely beloved

loved Cousins and Counsellors *William* Duke of *Devonshire*, Our Steward of Our Household; *Charles* Duke of *Somerset*, Our Master of Our Horse; *James* D. of *Ormond*, Our Lieutenant-General and General-Governor of Our Kingdom of *Ireland*; *Charles* D. of *Bolton*, *Mainhardt* Duke of *Schomberg*, *Thomas* Duke of *Leeds*, *John* Duke of *Marlborough*, Our Captain-General of all and singular Our Forces, and Master-General of Our Ordnance; Our Right Trusty and Right Welbeloved Cousins and Counsellors *Robert* Earl of *Lindsey*, Our Great Chamberlain of *England*; *Charles* Earl of *Carlisle*, Earl-Marshall of *England*, during the Minority of the Duke of *Norfolk*; *Henry* Earl of *Kent*, Our Chamberlain of Our Household; *Charles* Earl of *Dorset* and *Middlesex*, *George* Earl of *Northampton*, *Charles* Earl of *Manchester*, *Thomas* Earl of *Stamford*, *Thomas* Earl of *Thanet*, *Charles-Bodvile* Earl of *Radnor*, *Charles* Earl of *Berkley*, *Daniel* Earl of *Nottingham*, *Laurence* Earl of *Rocheſter*, *Montague* Earl of *Abingdon*, Our Conſtable of the Tower of *London*; *Ralph* Earl of *Montague*, *Richard* Earl of *Scarborough*, *Francis* Earl of *Bradford*, Treasurer of Our Household; *Edward* Earl of *Ferſey*, *Richard* Earl of *Ranelagh* in Our Kingdom of *Ireland*; Our Right Trusty and Well-beloved Cousin and Counſellor *Thomas* Lord Viſcount *Weymouth*; the Right Reverend Father in God Our Right Trusty and Well-beloved Counſellor *Henry* Biſhop of *London*, and the Biſhop of *London* for the time being; Our Right Trusty and Well-beloved Counſellors

*Robert*

*Robert Lord Ferrers, Thomas Lord Wharton, John Lord Pawlet, Robert Lord Lexington, William Lord Dartmouth, John Lord Granville, Heneage Lord Guernsey, John Lord Gower, Thomas Lord Coningsby, of the Kingdom of Ireland; Robert Harley, Esq; Speaker of the House of Commons, and one of Our Principal Secretaries of State, and the Speaker of the House of Commons for the time being; Peregrine Bertie, Esq; Our Vice-Chamberlain of Our Household; Henry Boyle, Esq; Chancellor and Under-Treasurer of our Exchequer; Thomas Mansel, Esq; Comptroller of our Houthold; Sir Charles Hedges, Kt. one of Our Principal Secretaries of State, Sir John Holt, Kt. Chief Justice of Our Court of Queens-Bench; Sir John Trevor, Kt. Master of the Rolls, and the Master of the Rolls for the time being; Sir Thomas Trevor, Kt. Chief Justice of Our Court of Common Pleas; Sir George Rooke, Kt. Vice-Admiral of England; Sir Edward Seymour, Baronet. James Vernon, Esq; John Smith, Esq; and John How, Esq; and all and every the Privy Counsellors of Us, Our Heirs and Successors for the time being; All and every the Lieutenants of, in, and for the several Counties within Our Kingdom of England and Dominion of Wales, now and for the time being; All and every the Custodes Rotulorum for the several Counties within Our Kingdom of England: The Reverend Fathers in God, Nathaniel Bishop of Durham, Peter Bishop of Winchester, William Bishop of Landaff, William Bishop of Worcester, Thomas Bishop of Rochester,*  
*Jonathan*



Jonathan Bishop of Exeter, Gilbert Bishop of Sarum, Humphrey Bishop of Hereford, Nicholas Bishop of Chester, Simon Bishop of Ely, John Bishop of Litchfield and Coventry, John Bishop of Norwich, Richard Bishop of Peterborough, Edward Bishop of Gloucester, John Bishop of Bristol, James Bishop of Lincoln, John Bishop of Chichester, William Bishop of Oxford, John Bishop of Bangor, William Bishop of Carlisle, George Bishop of Bath and Wells, William Bishop of St. Asaph, and all and every the Bishops of the several Dioceses aforesaid, for the time being; and the Bishop of St. Davids for the time being; the Deans of the several Cathedral-Churches within our Kingdom of England and Dominion of Wales, now, and for the time being; Our Trusty and Welbeloved Sir Littleton Powis, Sir Henry Gold, and Sir John Powell, Knights, Justices of our Court of Queens-Bench, and the Chief Justice, and other the Justices of the Court of Queens-Bench, for the time being; Our Trusty and Welbeloved Sir Edward Nevill, Sir John Blencoe, Knights, and Robert Tracy, Esq; Justices of our Court of Common-Pleas, and the Chief Justices, and other the Justices of the Court of Common-Pleas, for the time being; Our Trusty and Welbeloved Sir Edward Ward, Kt. Chief Baron of our Court of Exchequer, Sir Thomas Bury, Kt. Robert Price, Esq; and John Smith, Esq; other the Barons of Our Court of Exchequer, and the Chief Baron, and other the Barons of the Court of Exchequer, for the time being; Our Trusty and Welbeloved Sir Thomas Powis, Kt.  
Sir

Sir *Salathiel Lovell*, Kt. Our Serjeants at Law  
 Sir *Edward Northey*, Kt. Our Attorney-Gen-  
 eral, Sir *Simon Harcourt*, Kt. Our Solicitor  
 General, and the Serjeants at Law, Attorney  
 General, and Solicitor-General of Us, Our  
 Heirs and Successors, for the time being,  
 Sir *John Cooke*, Kt. Doctor of Laws, Our Ad-  
 vocate-General, and the Advocate-General of  
 Us, Our Heirs and Successors for the time be-  
 ing; the Chancellors, and Vice-Chancellors  
 of the Two Universities of *Oxford* and *Cam-*  
*bridge*, now, and for the time being; Our  
 Trusty and Welbeloved Sir *John Parsons*, Kt.  
 Mayor of Our City of *London*, and the Mayor  
 of the City of *London*, for the time being; all  
 and every the Aldermen of the City of *Lon-*  
*don*, now, and for the time being; the Mayor  
 of the City of *York*, for the time being; and all  
 and every the Mayors of the respective Cities  
 within Our *Kingdom* of *England*, now, and for  
 the time being, to be One Body-Politick and  
 Corporate of themselves, in Deed, and in  
 Name, by the Name of *The Governors of the*  
*Bounty of Queen Anne, for the Augmentation of*  
*the Maintenance of the Poor Clergy*; And them  
 One Body-Politick and Corporate, in Deed,  
 and in Name of *The Governors of the Bounty of*  
*Queen Anne, for the Augmentation of the Main-*  
*tenance of the Poor Clergy*, We do for Us, Our  
 Heirs and Successors make, create, erect, esta-  
 blish, and confirm for ever by these Presents;  
 And by the same Name, they and their Suc-  
 cessors shall have perpetual Succession, and  
 shall and may have and use a Common Seal

for

for the Business and Affairs of the said Body-  
 Politick and Corporate, and of their Successors,  
 with Power to break, alter, and make new  
 their Seal, from time to time, at their Plea-  
 sure, or as they shall see Cause; And by the  
 same Name, they and their Successors shall be  
 able and capable in Law to purchase, receive,  
 take, hold, and enjoy, for the Purposes herein  
 mentioned, as well from such Person and Per-  
 sons who shall be so charitably disposed to give,  
 (as from all other Persons who shall be wil-  
 ling to Sell, Alien, or Assign) to the said Cor-  
 poration hereby Constituted, any Manors,  
 Lands, Tenements, Hereditaments, Goods,  
 Chattels, or Possessions whatsoever, of what  
 Nature or Quality soever: And further, by  
 the same Name of *The Governors of the Bounty*  
*of Queen Anne, for the Augmentation of the*  
*Maintenance of the Poor-Clergy,* They and their  
 Successors shall and may sue and implead, and  
 be sued and impleaded, and answer and de-  
 fend, and be answered and defended in Courts  
 of Record, or any other Place whatsoever, and  
 before whatsoever Judges, Justices, Officers,  
 and Ministers of Us, Our Heirs and Succe-  
 ssors, and in all and singular Pleas, Actions,  
 Suits, Causes, and Demands whatsoever, of  
 what Nature or Kind soever, in as ample and  
 beneficial Manner and Form, as any other  
 Body-Politick and Corporate, or any other the  
 Liege-People of *England*, being Persons able  
 and capable in Law, may or can have, take,  
 receive, hold, keep, possess, enjoy, sue, im-  
 plead, defend or answer, or be sued impleaded,  
 defended

defended or answered in any manner of will and shall and may do and execute all and singular other Matters and Things by the Name aforesaid, that to them shall or may appertain to do by virtue of the said Act, or of the Presents or otherwise. And for the Ends and Purposes before-expressed, and pursuant to and by virtue of the said Act of Parliament, We have Given and Granted, and by these Presents for Us, Our Heirs and Successors, do Give and Grant unto the said *Governors of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*, hereby constituted, and their Successors, All the Revenue of First-Fruits, and Yearly Perpetual Tenth of all Dignities, Offices, Benefices, and Promotions-Spiritual whatsoever, payable to Us Our Heirs and Successors, by virtue of the said Act of Parliament made in the Six and Twentieth Year of the Reign of King Henry the Eighth, or by virtue of an Act of Parliament made in the First Year of the Reign of the late Queen *Elizabeth*, for Restitution of First-Fruits and Tenths to the Crown, or by virtue of any other Act or Acts of Parliament whatsoever, and all Arrears of the said First-Fruits and Tenths now due and undischarged (other than the Arrears of the Tenths due upon the small Rectories and Vicarages, under the Yearly Value of Thirty Pounds *per Annum*, by Us, as aforesaid, directed to be discharged) to be applied and disposed of by the said Governors hereby constituted, to and for the Augmentation of the Maintenance of such Parsons,

sons, Vicars, Curates, and Ministers officiating in any Church or Chapel within the Kingdom of *England*, Dominion of *Wales*, and Town of *Berwick* upon *Tweed*, where the Liturgy and Rites of the Church of *England*, as now by Law established, are or shall be used and observed, under such Rules, Restrictions and Directions, and in such Manner and Form, as shall be established pursuant to these Presents: And for the better ordering, managing, and directing the Affairs of the said Corporation, We do hereby for Us, Our Heirs and Successors, grant unto the Governors of the Bounty of Queen *Anne*, for the Augmentation of the Maintenance of the poor Clergy, and their Successors; and We do hereby ordain, will and appoint, That, as soon as conveniently may be, after the Date of these Presents, all and every the Persons herein before-named, and constituted Governors, as aforesaid, do assemble and meet together in the Room commonly called *The Prince's Chamber*, adjoining to the House of Lords, or some other convenient Place within our Cities of *London* or *Westminster*, or the Suburbs thereof, as shall in that Behalf be appointed by any Seven or more of the Governors hereby constituted (whereof we will that any one of the Privy Council of Us, Our Heirs or Successors, and any one of the Bishops aforesaid, or any one of the Judges of any the Courts at *Westminster*, or of the said Counsel learned in the Law, of Us, our Heirs or Successors, shall be Three) to treat and consult concerning the Business and Affairs of  
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the said Corporation, and the good Rule and Government thereof, and the faithful Distribution of Our Royal Bounty aforesaid. And We do farther by these Presents for Us, Our Heirs and Successors, will, authorize, require and command the said Governors, and their Successors, from time to time, to summon, appoint, hold, and keep Four General Courts at least in every Year, at any convenient Place or Places aforesaid (Notice being in that Behalf first given by inserting the same in the *Gazett*, or otherwise, Fourteen Days before the Holding of every such General Court;) one of the said Four General Courts to be held and kept in the Month of *December*; another in the Month of *March*; another in the Month of *June*; and another in the Month of *September*. And We do also will, and by these Presents for Us, Our Heirs and Successors, do grant and ordain, that all the said Governors for the time being, or so many of them as shall at any time or times be assembled or met together, as aforesaid, being not less than Seven in Number at one Meeting, or Assembly in such General Court (of whom any one of the Privy Council of Us, Our Heirs or Successors, and any one of the Bishops aforesaid, and any one of the Judges aforesaid, for the time being, or the said Counsel learned in the Law, of Us, Our Heirs or Successors, We will shall he always Three) shall be, and be called a General Court of the said Corporation; and that in such General Courts, the said Governors and their Successors, shall, and may do and dispatch

dispatch by Majority of Votes, any Business relating to the Government and Affairs of the said Corporation; and also hear, debate, and determine any Complaint or Matter that shall be brought or exhibited in the said Court, touching the Affairs of the said Corporation, and shall and may call to their Aid and Assistance, such Persons as the said General Court, or the major part of them, assembled as aforesaid, shall think fit, to aid, assist, and advise the said Governours hereby constituted, and their Successors, in the due Execution of the Powers and Authorities hereby granted. And for the better ordering and managing the Affairs of the said Corporation, We do hereby for Us, Our Heirs and Successors, grant, authorize and appoint, That the Governours of the said Corporation hereby constituted, and for the time being, or any Seven or more of them ( of whom Three or more to be such as aforesaid ) shall and may from time to time, as often as they shall think fit, erect, nominate and appoint such, and so many of the Governors of the said Corporation for the time being as they shall judge expedient, to be Committees of the said Corporation, for the better dispatching, and more easie managing and carrying on the Purposes aforesaid, and the true Intent and Meaning of these Presents; and to invest such Committees with such Powers, as the Governours of the said Corporation, assembled in a General Court, or the major part of them so assembled, shall think fit to intrust them with, pursuant to Powers hereby given

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to

to the Governours herein before-named and constituted. And for the better effecting Our Will and Pleasure in these Presents declared, We do for Us, Our Heirs and Successors, authorize and command *The Governours of the Bouny of Queen Anne, for the Augmentation of the Maintenance of the poor Clergy*, at their first, or some other subsequent Meeting or Meetings of the said Governours hereby constituted, or so many of them as shall then meet and be present (of whom any one of the Privy Council aforesaid, for the time being, and any one of the Bishops aforesaid, for the time being, and any one of the Judges aforesaid, for the time being, or of the said Counsel learned in the Law, of Us, Our Heirs and Successors, for the time being, We will shall be Three at the least) to consider of, consult, advise, agree upon, draw up, prepare, and propose in Writing to Us, Our Heirs or Successors, such proper and necessary Rules, Methods, Directions, Orders and Constitutions, as the said Governours, or any Seven or more of them, as aforesaid, for the time being, shall in their Discretions judge most convenient to be observed, for and towards the better Rule and Government of the said Corporation, and the Members thereof; and the receiving, accounting for, and managing all and every the Revenues hereby granted, or mention'd to be granted, as aforesaid, and all Arrears thereof; and also for and concerning the Distribution, Paying and Disposing of the same, and all other Gifts and Benefolences, that shall or may be given or bequeathed

bequeathed to the said Corporation for the charitable Ends aforesaid, for the Augmentation of the Maintenance of the poor Clergy aforesaid; and such Rules, Methods, Orders, Directions and Constitutions, as shall be so proposed, and shall be approved, altered or amended by Us, Our Heirs or Successors, and so signified and declared by Us, Our Heirs or Successors, under Our or Their Great Seal, We will shall be the Rules, Methods, Directions, Orders and Constitutions, by which *The Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*, and their Successors, shall receive, manage, govern, apply, and dispose our said Royal Bounty, and other Gifts and Benevolences, which shall or may hereafter be given or bequeathed to the said Corporation, where the Donors thereof shall not particularly direct the Application thereof, to and for the Increase of the Maintenance of such Parsons, Vicars, Curates, and Ministers Officiating in any Church or Chapel within the Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick upon Tweed*, where the Liturgy and Rites of the Church of *England*, as now by Law Established, are and shall be used and observed, for whom a Maintenance is not already sufficiently provided. And for the better enabling the Governours of Our Bounty aforesaid, to perform our Will and Pleasure herein before expressed, We do hereby for Us, Our Heirs and Successors, authorize and require Our Keeper of our Great Seal of *England* now be-

ing, or the Lord High Chancellour of *England*, or Keeper of the Great Seal of *England* for the time being, upon the Request of the said Governours hereby constituted, or any Seven or more of them (of whom any One of the Privy Council afore said, for the time being, and any One of the Bishops afore said, for the time being, and any One of the Judges, or of the Council Learned in the Law, as afore said, for the time being, We will shall be Three) to issue out Writs of Enquiry, under the Great Seal of *England*, unto all and every, or any the Counties and Cities in *England* and *Wales*, to be directed to such and so many Persons, as the said Keeper of the Great Seal of *England*, now and for the time being, or the Lord High Chancellour of *England* for the time being, shall nominate, assign or appoint, thereby authorizing and requiring them, or any Three or more of them, and giving them full Power and Authority, by the Oaths of good and lawful Men, and by all other lawful Ways and Means to enquire and find out (and likewise the said Governours hereby named and constituted, and any Seven or more of them, are hereby commanded and authorized to enquire, find out, and inform themselves by all lawful Ways and Means, of the true Yearly Value of the Maintenance of every Parson, Vicar, Curate and Minister, Officiating in any Church or Chapel, within such Counties and Cities where the Liturgy and Rites of the Church of *England*, as by Law Established, are or shall be used and observed, for whom a Maintenance of the  
Yearly



Yearly Value of Eighty Pounds is not sufficiently provided, and the distances of such Churches and Chapels from our City of London, and which of them are in Towns-Corporate, or Market-Towns, and which not, and how the several Churches and Chapels are supplied by Preaching-Ministers, and where the Incumbents have more than one Living, That some Course may be taken for providing for the Augmentation of Maintenance, where the same may be found necessary. And we do farther hereby for Us, Our Heirs and Successors, authorize and require the said Governours, now and for the time being, or any Seven or more of them (of whom we will that any One of the Privy Council aforesaid, for the time being, and any One of the Bishops aforesaid, for the time being, and any One of the Judges aforesaid, or of the said Counsel Learned in the Law, of Us, Our Heirs or Successors, be Three) from and after such Enquiry had and made, as aforesaid, to prepare and lay before Us, Our Heirs or Successors, a true State and Account of the Yearly Values of the Maintenance of all such Parsons, Vicars, Curates, and Ministers aforesaid, and also of the present Yearly Values of the said First-Fruits and Tenths, and the Arrears thereof, hereby granted for the Augmentation of the Maintenance of the Poor Clergy aforesaid; And also of such Pensions, Payments, or other Charges, as are now granted and payable out of the said First-Fruits and Tenths, by Letters-Patents, or otherwise therewith

charged, to the end, that the same being satisfied and discharged, Our said Royal Bounty may be applied and disposed to, and amongst such of the Poor Clergy, the Augmentation of whose Maintenance will appear to be most necessary. And for the better managing, ordering, and governing the Affairs of the said Corporation, we do by these Presents for Us, Our Heirs and Successors, grant to the said *Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*, and their Successors; And do hereby ordain and appoint, That there shall be from time to time for ever, One able and sufficient Person to be nominated and chosen, as is herein after-expressed, who shall be, and be called *Secretary to the Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*, and who shall act and perform all such Matters and Things, for and on behalf of the said Corporation, as shall be found requisite and necessary to be executed and performed by him in such Office: And for the better Execution of Our Will and Pleasure in that behalf, We have named, constituted and appointed, and by these Presents, for Us, Our Heirs and Successors, do name, constitute, and appoint Our Trusty and Wellbeloved *John Chamberlain, Esq;* to be the first and present Secretary to the *Governours of the Bounty of Queen Anne, for the said Augmentation of the Maintenance of the Poor Clergy*, who shall continue in the said Office of Secretary, during the Pleasure of the *Governours of the Bounty*.

*Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy.* And we do farther by these Presents, for Us, Our Heirs and Successors, grant unto the said Governours of the *Bounty of Queen Anne, for the said Augmentation of the Poor Clergy*, and to their Successors, that they and their Successors shall, and may have One able and sufficient Person to be nominated and chosen, as is herein after-mentioned, who shall be, and be called *Treasurer to the Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*; and also such inferior Officers, Substitutes and Servants, as the said Governours for the time being, assembled in a General Court, shall by a Majority of Votes think fit to chuse and elect; which inferior Officers and Substitutes so elected, we will and ordain for Us, Our Heirs and Successors, shall continue in their several and respective Offices, during the pleasure of the said Governours for the time being: And we have also named, constituted and appointed, and by these Presents, for Us, Our Heirs and Successors, do name, constitute, and appoint Our Trusty and Welbeloved *Edward Tennison, Senior, Gentleman*, to be the first and present *Treasurer to the Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*, to continue in the said Office of Treasurer during the pleasure of the Governours of the *Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*; and farther we do by these Presents for Us,

Our Heirs and Successors, grant unto the said Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy, and their Successors, full Power and Authority from time to time, as often as it shall happen that any Secretary or Treasurer to the said Governours shall die, or be removed from his, or their respective Offices aforesaid, or whose Office or Offices shall otherwise become void ; to elect and chuse by a Majority of Votes of such Governours as shall be assembled in a General Court, some other fit Person or Persons into the Office or Offices of him or them who shall so die or be removed, as aforesaid, or whose Office shall otherwise become void ; which Person or Persons to be chosen, shall continue in his or their Office or Offices whereunto he or they shall be so Elected, during the pleasure of the Governours. Provided always, and We do by these Presents for Us, Our Heirs and Successors, Ordain and Appoint, That the said *John Chamberlain* and *Edward Tennison* herein before-named and constituted, to be the first and present Secretary and Treasurer to the Governours hereby incorporated, and their Successors ; and also every Secretary and Treasurer hereafter to be Elected, shall, before they take upon them the Execution of their several Offices respectively, take their Corporal-Oaths for the due and faithful Execution of their several Offices, before any Seven or more of the Governours aforesaid, for the time being, in a General Court of the said Corporation, who are hereby Authorized

thorized and Required to Give and Administer to them the said Oaths from time to time accordingly. And the present Treasurer, and every future Treasurer, shall give sufficient Security to the said Corporation for his faithful Accounting for the Moneys he or they shall receive by Virtue of the said Office. And having no doubt that not only the Governours herein before-named and constituted, but also a great Number of other Our good Subjects will be disposed to follow our Example, and will with great Chearfulness and Readiness contribute to the farther Augmentation of the Maintenance of the poor Clergy, We do by these Presents, for Us, our Heirs and Successors, Authorize and Impower *The Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*, to take and receive from such of Our good Subjects, as shall be piously inclined to contribute to the Increase of this Our Royal Bounty to the poor Clergy, with such voluntary Gifts, or Subscriptions of any Sum or Sums of Money, Goods or Chattels, or of, or for any Estate, or Interest in any Manors, Lands, Tenements, Rents, Hereditaments, or other Matters, or any Things whatsoever, which any Person or Persons, Bodies-Politick or Corporate, shall be willing to Give, Limit, Appoint or Bestow, for or towards the farther Augmentation of the Maintenance of the poor Clergy; and farther to cause to be Collected and Received whatsoever shall be Given, Contributed, Bequeathed, Designed or Appointed for the Pur-  

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poses



poses aforesaid, by the Hands of the Treasurers to the said Corporation hereby Constituted, who shall be appointed to receive the same. And to the End our Royal Intention in the Premises may be better known to Our Loving Subjects, we do hereby require the Governours herein before-named and constituted, or any Seven or more of them, to cause publick Notice of this Our Royal Charter, or the Tenour or Scope thereof, to be made in such Places, or by such Ways and Means as the said Governours, or any Seven or more of them shall think most conducive to the furtherance of the Bounty and Charity aforesaid. And farther we do hereby, for Us, Our Heirs and Successors, give full Power and Authority unto the Governours aforesaid, and their Successors from time to time, and at all times hereafter, to admit into the said Corporation hereby Erected and Constituted, all and every such Person or Persons, who shall be piously disposed to Contribute towards the farther Augmentation of the Maintenance of the said poor Clergy, and the Advancing so good a Work, as the said Governours in a General Court of the said Corporation shall think fit to admit; which Person or Persons, when so he is admitted into the said Corporation, shall be, and be deemed, called and reputed Members of the said Corporation, and from time to time shall and may Vote and Act in as ample Manner and Form, and have and enjoy such and the same Powers, Privileges and Authorities, as the other Governours or Governours of the said Corporation herein before-

before-named, may Vote and Act, have, enjoy and perform by Virtue of these Presents. And We do hereby, for Us, Our Heirs and Successors, Authorize and Impower the Governours hereby Constituted, and their Successors, or any Seven or more of them ( of whom any one of the Privy Council aforesaid, for the time being, and any one of the Bishops aforesaid, for the time being, and any one of the Judges, or of the Counsel Learned in the Law, of Us, Our Heirs or Successors, as aforesaid, to be Three at least ) in case they shall find the same necessary for carrying on and perfecting the pious Intentions and Designs of this Our Royal Charter, by Instruments of Writings under the Seal of the said Corporation, to Depute and Substitute such Persons as they shall think fit to intrust to take such Subscriptions, as aforesaid, and to collect and bring in the Moneys which shall be contributed, bequeathed, designed or appointed for the Ends and Purposes aforesaid, to the Hand of the Treasurer to the said Governours, for the time being, and to displace or discharge such Substitutes or Deputies, or any of them, and to appoint others in the place of them, or any of them, from time to time, as the said Governours, or any Seven or more of them, ( of whom Three or more to be such, as aforesaid ) shall see cause; and also to settle, establish, and appoint such Cheques, Comptrols and Orders, as they shall think necessary or safe for the full and due charging of the Treasurer, and also the said Deputies, and all and every other Person

son and Persons whatever, who shall receive or be chargeable with any Moneys, or other Profits for the said Charitable Use or Purpose, to answer, pay, or account for the same. And we do hereby for Us, Our Heirs and Successors, Authorize, Require, and Command the said *Governours of the Bounty of Queen Anne, for the Augmentation of the Maintenance of the Poor Clergy*, from time to time, to cause to be entered in a Book, to be kept for that purpose, the Names of the Persons who shall subscribe or contribute, give, devise, or appoint any Moneys, or any real or personal Estate, or other Matters or Things towards this charitable and good Design, with the Sums of Money, Goods, Chattels, Estates, or other Things by them respectively contributed, given, limited, appointed or devised, to the End a perpetual Memorial may be made of such well-disposed Persons who shall become Benefactors, as aforesaid, and whereby the Treasurer to the said Corporation may be charged with more Certainty in his Account. And our farther Will and Pleasure is, and we do hereby for Us, Our Heirs and Successors, give full Power and Authority unto the said *Edward Tennison*, and the Treasurer to the said Governours for the time being, from time to time, upon the Receipt or Receipts of any Sum or Sums of Money, or other Profits, for the Purposes aforesaid, or any of them, to give an Acquittance or Acquittances for the same, which shall be good and sufficient Discharges, to all Intents and Purposes whatsoever. And the said

Treasurer

Treasurer for the time being, in his Receipts, Payments and Accounts, shall be subject to such Inspections, Examination and Comptrol, as the said Governours for the time being, or any Four or more of them (whereof such as are before-appointed for the Special *Quorum*, to be Three at least) shall establish and appoint. And we do hereby for Us, Our Heirs and Successors, Grant and Declare, That these our Letters-Patents, or the Inrollment thereof, shall be in and by all Things good, Valid and Effectual in the Law, according to the true Intent and Meaning of the same, and shall be taken, construed, and adjudged in the most favourable and beneficial Sense, and to the best Advantage of and for the said Corporation, as well in all our Courts of Record, as elsewhere: Notwithstanding the not reciting, or not truly or fully reciting of any Act or Acts of Parliament, of or concerning the said First-Fruits or Tenths hereby granted or mentioned to be granted, or any part or parcel thereof; and notwithstanding the not mentioning the true yearly Value of the said First-Fruits or Tenths, or any of them; and notwithstanding any Non-recital, Mis-recital, Defect, Incertainty, or Imperfection in these our Letters-Patents contained, or any other Matter, Cause, or Thing whatsoever. In Witness whereof, We have caused these Our Letters to be made Patents: Witness Our Self at *Westminster*, the Third Day of *November*, in the Third Year of Our Reign.

By Writ of Privy Seal.

COCKS.

*An*

*An ACT for the more Easie Recovery of  
Small Tythes.*

**F**OR the more Easie and Effectual Recovery of Small Tythes, and the Value of them, where the same shall be unduly Subtracted and Detained, where the same do not amount to above the yearly Value of Forty Shillings from any one Person, Be it Enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That all and every Person and Persons shall henceforth well and truly set out and pay all and singular the Tythes, commonly called Small Tythes, and Compositions and Agreements for the same, with all Offerings, Oblations, and Obventions, to the several Rectors, Vicars, and other Persons to whom they are or shall be due, in their several Parishes within this Kingdom of *England*, Dominion of *Wales*, and Town of *Berwick* upon *Tweed*, according to the Rights, Customs and Prescriptions commonly used within the said Parishes respectively; And if any Person or Persons shall hereafter Subtract or Withdraw, or any ways fail in the true Payment of such Small Tythes, Offerings, Oblations, Obventions or Compositions, as aforesaid, by the space of Twenty Days at most after Demand thereof, then it shall and may be lawful for the



the Person or Persons to whom the same shall be due, to make his or their Complaint in Writing unto Two or more of His Majesties Justices of the Peace within that County, Riding, City, Town-Corporate, Place or Division, where the same shall grow due (neither of which Justices of Peace is to be Patron of the Church or Chapel whence the said Tythes do or shall arise, nor any ways Interested in such Tythes, Offerings, Oblations, Obventions or Compositions aforesaid.

And be it further Enacted, by the Authority aforesaid, That if hereafter any Suit or Complaint shall be brought to Two or more Justices of the Peace, as aforesaid, concerning Small Tythes, Offerings, Oblations, Obventions or Compositions, as aforesaid, The said Justices are hereby Authorized and Required to Summon in Writing, under their Hands and Seals, by reasonable Warning, every such Person or persons against whom any Complaint shall be made, as aforesaid; And after his or their Appearance, or upon Default of their Appearance, the said Warning or Summons being proved before them upon Oath, the said Justices of Peace, or any Two or more of them, shall proceed to Hear and Determine the said Complaint, and upon the Proofs, Evidences, and Testimonies produced before them, shall in Writing under their Hands and Seals Adjudge the Case, and give such reasonable Allowance and Compensation for such Tythes, Oblations, and Compositions so subtracted or withheld, as they shall judge to be just and Reasonable,

Reasonable, and also such Costs and Charges not exceeding Ten Shillings, as upon the Merits of the Cause shall appear Just.

And be it farther Enacted, That if any Person or Persons shall refuse or neglect, by the space of Ten Days after Notice given, to pay or satisfie any such Sum of Money, as upon such Complaint and Proceeding, shall by Two or more Justices of the Peace be adjudged, as aforesaid, In every such Case, the Constaibles and Church-Wardens of the said Parish, or one of them, shall by Warrant under the Hands and Seals of the said Justices to them directed, Distrain the Goods and Chattels of the Party so refusing or neglecting, as aforesaid, and after detaining them by the space of Three Days, in Case the said Sum so adjudged to be paid, together with reasonable Charges for making and detaining the said Distress, be not tendred or paid by the said Party in the mean time, shall and may make publick Sale of the same, and pay to the Party complaining so much of the Money arising by such Sale, as may satisfie the said Sum so adjudged, retaining to themselves such reasonable Charges for Making and Keeping the said Distress, as the said Justices shall think fit, and shall render the Overplus (if any be) to the Owner.

Provided always, and be it Enacted, That it shall and may be Lawful for all Justices of Peace, in the Examination of all Matters offered to them by this Act, to Administer an Oath or Oaths, to any Witness or Witnesses, where the same shall be necessary for their Information,

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formation, and for the better Discovery of the Truth.

provided also, and be it Enacted, That this Act, or any thing herein contained, shall not extend to any Tythes, Oblations, Payments, or Obventions within the City of *London* or Liberties thereof, nor to any other City or Town-Corporate, where the same are settled by any Act of Parliament in that Case particularly made and provided.

provided also, and be it Enacted, That no Complaint for, or concerning any small Tythes, Offerings, Oblations, Obventions, or Compositions hereafter due, shall be heard and determined by any Justices of the Peace, by virtue of this Act, unless the Complaint shall be made within the space of Two Years next after the times that the same Tythes, Oblations, Obventions, and Compositions did become due or payable, any thing in this Act contained to the contrary notwithstanding,

provided also, and be it Enacted, That any Person finding him, her, or themselves aggrieved, by any Judgment to be given by any Two Justices of the Peace, shall and may Appeal to the next General Quarter-Sessions to be held for that County, Riding, City, Town-Corporate, or Division; and the Justices of the Peace there present, or the major part of them, shall proceed finally to Hear and Determine the Matter, and to Reverse the said Judgment, if they shall see Cause; And if the Justices then present, or the major part of them, shall find Cause to Confirm the Judgment given  
by

by the first Two Justices of the Peace, they shall then Decree the same by Order of Sessions, and shall also proceed to give such Costs against the Appellant, to be Levied by Distress and Sale of the Goods and Chattels of the said Appellant, as to them shall seem Just and Reasonable; And no Proceedings or Judgments had, or to be had, by Virtue of this Act, shall be Removed, or Superseded by Virtue of any Writ of *Certiorari*, or other Writ, out of His Majesties Courts at *Westminster*, or any other Court whatsoever, unless the Title of such Tythes, Oblations, or Obventions shall be in Question, any Law, Statute, Custom, or Usage to the contrary notwithstanding.

Provided always, and be it Enacted, That where any Person or Persons complained of for subtracting or withholding any Small Tythes, or other Duties aforesaid, shall, before the Justices of the Peace to whom such Complaint is made, insist upon any Prescription, Composition or *Modus Decimandi*, Agreement or Title, whereby he or she is or ought to be freed from Payment of the said Tythes, or other Dues in Question, and deliver the same in Writing to the said Justices of the Peace, Subscribed by him or her, and shall then give to the Party complaining reasonable and sufficient Security to the Satisfaction of the said Justices, to pay all such Costs and Damages, as upon a Tryal at Law to be had for that purpose, in any of His Majesties Courts, having Cognizance of that Matter, shall be given against him, her or them, in Case the said Prescription, Composition

tion or *Modus Decimandi*, shall not upon the said Tryal be allowed, That in that Case, the said Justices of the Peace shall forbear to give any Judgment in the Matter; And that then and in such Case the Person or Persons so complaining, shall and may be at liberty to prosecute such Person or Persons for their said Subtraction in any other Court or Courts whatsoever, where he, she, or they might have sued before the making of this Act, any thing in this Act to the contrary notwithstanding.

And be it farther Enacted by the Authority aforesaid, That every Person and Persons, who shall by Virtue of this Act obtain any Judgment, or against whom any Judgment shall be obtained, before any Justices of the Peace out of Sessions for Small Tythes, Oblations, Obventions or Compositions, shall cause or procure the said Judgment to be Inrolled at the next General Quarter-Session, to be holden for the said County, City, Riding or Division; And the Clerk of the Peace for the said County, City, Riding or Division, is hereby required upon tender thereof to Inroll the same; And that he shall not ask or receive for the Inrollment of any one Judgment, any Fee or Reward exceeding One Shilling; And that the Judgment so Inrolled, and Satisfaction made, by paying the same Sum so adjudged, shall be a good Bar to conclude the said Rectors, Vicars, and other Persons, from any other Remedy for the said Small Tythes, Oblations, Obventions or Compositions, for which the said Judgment was obtained.

And.



And be it farther Enacted by the Authority  
aforesaid, That if any Person or Persons against  
whom any such Judgment or Judgments shall  
be had, as aforesaid, shall remove out of the  
County, Riding, City or Corporation, after  
Judgment had, as aforesaid, and before the  
Levy of the Sum or Sums thereby adjudged  
to be Levied, the Justices of the Peace, who  
made the said Judgment, or one of them, shall  
Certifie the same, under his or their Hands and  
Seals, to any Justice of Peace of such other  
County, City, or Place wherein the said Per-  
son or Persons shall be Inhabitants; Which said  
Justice is hereby Authorized and Required, by  
Warrant under his Hand and Seal, to be Di-  
rected to the Constables or Church-warden  
of the Place, or one of them, to Levy the Sum  
or Sums so adjudged to be Levied, as afore-  
said; upon the Goods and Chattels of such Per-  
son or Persons, as fully as the said other Justices  
might have done, if he, she or they had  
not removed, as aforesaid, which shall be paid  
according to the said Judgment.

Provided always, and be it Enacted, That  
no Vicar or other Person shall have Remedy to  
Recover Small Tythes, or other Dues afore-  
said, which became or were due before the  
making of this Act, unless Complaint be made  
to the Justices of the Peace in Form aforesaid,  
before the First Day of *October*, which shall be  
in the Year of our Lord, One thousand six  
hundred ninety six.

And it is hereby Declared and Enacted,  
That the said Justices of the Peace who shall  
Hear

Hear and Determine any of the Matters aforesaid, shall have Power to give Costs, not exceeding Ten Shillings to the Party prosecuted; if they shall find the Complaint to be False and Vexatious; which Costs shall be Levied in Manner and Form aforesaid.

Provided also, and be it farther Enacted, That if any Person or Persons shall be Sued for any Thing done in Execution of this Act, and the Plaintiff in such Suit shall Discontinue his Action, or be Nonsuit, or a Verdict pass against him, that then in any of the said Cases, such Person or Persons shall Recover Double Costs.

Provided always, That any Clerk or other Person or Persons, who shall begin any Suit for Recovery of Small Tythes, Oblations or Obventions, not exceeding the Value of Forty Shillings, in His Majesties Court of Exchequer, or in any of the Ecclesiastical Courts, shall have no Benefit by this Act, or any Clause in it, for the same Matter for which he or they have so Sued.

Provided always, and be it farther Enacted, That this Act shall Continue for the space of Three Years, and from thence to the End of the next Session of Parliament, and no longer.

*An ACT for making Perpetual an Act for  
the more easie Recovery of Small Tythes.*

**W**Hereas divers Temporary Laws, which by Experience have been found Beneficial and useful, are expired, or near expiring; Therefore for Continuing the same, Be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That an Act made in the Session of Parliament held in the Seventh and Eighth Years of the Reign of the late King *William* the Third, (Intituled, *An Act for the more easie Recovery of Small Tythes*) which was to continue for Three Years, and from thence to the End of the next Session of Parliament; which Act was farther continued by an Act made in the Tenth and Eleventh Years of the Reign of the said King *William* the Third, for Seven Years from the Expiration thereof, which will expire at the End of the next Session of Parliament, after the Year One thousand seven hundred and five, shall be, and is hereby continued, and shall be in Force, and be made perpetual.

An ADMONITION to all such as shall intend hereafter to enter the State of Matrimony godly and agreeably to LAWS.

**M**Arriage is honourable among all Men, and the bed undefiled. But Whoremongers and Adulterers God will judge, Heb. 13. 4.

To avoid Fornication, let every man have his wife, and let every woman have her husband. He that cannot contain, let him marry: For better it is to marry than to burn, 1 Cor. 7. 2, 9.

Unto the Married I command, not I, but the Lord: Let not the wife depart from her husband; but if she depart, let her remain unmarried; or be reconciled unto her husband. And let not the husband put away his wife, 1 Cor. 7. 10, 11.

**F**irst, That they Contract not with such Persons as be hereafter expressed, nor with any of like Degree, against the Law of God, and the Laws of the Realm.

Secondly, That they make no Secret Contracts, without Consent or Counsel of their Parents or Elders, under whose Authority they be, contrary to God's Laws and Mans Ordinances.

Thirdly, That they Contract not anew with any other upon Divorce and Separation made by the Judge for a time, the Laws yet standing to the contrary.

I. It

**I.** **I**T is to be noted, that those persons which be in the direct Line ascendent and descendent, cannot marry together, although they be never so far asunder in Degree.

**II.** It is also to be noted, that Consanguinity and Affinity (Letting and Dissolving Matrimony) is Contracted as well in them and by them which be of Kindred by the one side as in and by them which be of Kindred by both sides.

**III.** *Item*, That by the Laws, Consanguinity and Affinity (Letting and Dissolving Matrimony) is Contracted as well by unlawful Company of Man and Woman, as by lawful Marriage.

**IV.** *Item*, In Contracting betwixt Persons doubtful, which be not expressed in this Table, it is most sure, first to Consult with Men Learned in the Laws, to understand what is Lawful, what is Honest and Expedient, before the finishing of their Contracts.

**V.** *Item*, That no Parson, Vicar or Curate, shall Solemnize Matrimony out of his or their Cure, or Parish-Church or Chapel, and shall not Solemnize the same in Private Houses, nor Lawless and Exempt Churches, under the Pains of the Law forbidding the same. And that the Curate have their Certificates, when the Parties dwell in divers Parishes.

**VI.** *Item*, the Banns of Matrimony ought to be openly Denounced in the Church by the Minister three several *Sundays* or *Festival-days*, to the end that they who will and can allege any



any Impediment, may be heard, and that  
Sray may be made till further Trial, if any  
Exception be made there against it upon suffi-  
cient Caution.

VII. *Item*, Who shall maliciously object a  
frivolous Impediment against a Lawful Matri-  
mony to disturb the same, is subject to the  
Pains of the Law.

VIII. *Item*, Who shall presume to Contract  
in the Degrees prohibited (though he do it ig-  
norantly) besides that the Fruit of such Copu-  
lation may be judged unlawful, is also Pu-  
nishable at the Ordinaries Discretion.

IX. If any Minister shall Conjoyn any such,  
or shall be present at such Contracts making,  
he ought to be Suspended from his Ministry  
for Three Years; and otherwise to be Pu-  
nished according to the Laws.

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N

None

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None shall come near to any of the kindred of his flesh to uncover their shame: I am the Lord, Levit. 18. 6.

A Man may not marry his

<i>Secundus gradus in linea recta ascendente.</i>		
Con.	Avia	1 Grandmother
af.	Avi relicta	2 Grandfathers wife
af.	Prosocrus, vel socrus magna.	3 Wifes grandmother.
<i>Secundus gradus in equalis in linea transversali ascendente.</i>		
Con.	Amita	4 Fathers sister
Con.	Matertera	5 Mothers sister
af.	Patru relicta	6 Fathers brothers wife.
af.	Avunculi relicta	7 Mothers brothers wife.
af.	Amita uxoris	8 Wifes fathers sister.
af.	Matertera uxoris.	9 Wifes mothers sister.
<i>Primus gradus in linea recta ascendente.</i>		
Con.	Mater	10 Mother
af.	Noverca	11 Stepmother
af.	Socrus.	12 Wifes mother.



A Man may not marry his

<i>Primus gradus in linea recta descendente.</i>		
Con.	Filia	13 Daughter
af.	Privigna	14 Wifes daughter
af.	Nurus.	15 Sons wife.
<i>Primus gradus equalis in linea transversali.</i>		
Con.	Soror	16 Sister
af.	Soror uxoris	17 Wifes Sister
af.	Fratr̃is relicta	18 Brothers wife.
<i>Secundus gradus in linea recta descendente.</i>		
Con.	Nept̃is ex filio	19 Sons daughter
Con.	Nept̃is ex filia	20 Daughters daughter
af.	Pronurus, i. e. relicta nepotis ex filio.	21 Sons sons wife.
af.	Pronurus, i. e. relicta nepotis ex filia	22 Daughters sons wife
af.	Privigni filia	23 Wifes sons daughter.
af.	Privignæ filia.	24 Wifes daughters daughter.
<i>Secundus gradus inæqualis in linea transversali descendente.</i>		
Con.	Nept̃is ex fratre	25 Brothers daughter

A Man may not marry his

Con.	Neptis ex sorore	26	Sisters daughter
af.	Neporis ex fratre relictæ	27	Brothers sons wife
af.	Neporis ex sorore relictæ	28	Sisters sons wife
af.	Neptis uxoris ex fratre	29	Wifes brothers daughter
af.	Neptis uxoris ex sorore.	30	Wifes sisters daughter.

A Woman may not marry with her

<i>Secundus gradus in linea recta ascen- dente.</i>			
Con.	Avus	1	Grandfather
af.	Aviæ relictus	2	Grandmothers husband
af.	Proſocer, vel ſocer magnus.	3	Husbands grand- father.
<i>Secundus gradus in- æqualis in linea transverſali ascen- dente.</i>			
Con.	Patruus	4	Fathers brother
Con.	Avunculus	5	Mothers brother
af.	Amitæ relictus	6	Fathers sisters husband
af.	Materteræ reli- ctus	7	Mothers sisters husband
af.	Patruus mariti	8	Husbands fathers brother

af.

A Woman may not marry with her

af.	Avunculus mariti.	9	Husbands mother's brother.
	<i>Primus gradus in linea recte ascendente.</i>		
Con.	Pater	10	Father
af.	Vitricus	11	Stepfather
af.	Socer.	12	Husbands father
	<i>Primus gradus in linea recta descendente.</i>		
Con.	Filius	13	Son
af.	Privignus	14	Husbands son.
af.	Gener.	15	Daughters husband.
	<i>Primus gradus equalis in linea transversali.</i>		
Con.	Frater	16	Brother
af.	Levir	17	Husbands brother
af.	Sororis relictus.	18	Sisters husband.
	<i>Secundus gradus in linea recta descendente.</i>		
Con.	Nepos ex filio	19	Sons son
Con.	Nepos ex filia	20	Daughters son
af.	Progener, i. e. relictus neptis ex filio	21	Sons daughters husband.
af.	Progener, i. e. relictus neptis ex filia.	22	Daughters daughters husband
af.	Privigni filius	23	Husbands sons son



A Woman may not marry with her

af.	Privignæ filius	24	Husbands daughters son.
	<i>Secundus gradus in-</i> <i>aqualis in linea</i> <i>transversali de-</i> <i>scendente.</i>		
Con.	Nepos ex fratre	25	Brothers son.
Con.	Nepos ex sorore	26	Sisters son
af.	Neptis ex fratre	27	Brothers daughters husband.
	relictus		
af.	Neptis ex sorore	28	Sisters daughters husband
	relictus.		
af.	Leviri filius, i. e.	29	Husbands brothers son
	nepos mariti ex fratre		
af.	Gloris filius, i. e.	30	Husbands sisters son.
	nepos mariti ex sorore.		

Set forth by the most Reverend Father in God,  
Matthew Parker, Archbishop of Canterbury,  
Primate of England and Metropolitan, 1563.



EXTRACT

**EXTRACT** out of the Acts for Burying in Woollen, so far as they concern the Minister.

Anno 30, Car. II.

**I**T is Enacted, That all persons in Holy Orders, Deans, Parsons, Deacons, Vicars, Curates, and their or any of their Substitutes, do within their respective Parishes, Precincts and Places, take an exact Account, and keep a Register of all and every person or persons Buried in his or their respective Parishes or Precincts, or in such common Burial-places as their respective Parishioners are usually Buried. And that some one or more of the Relations of the party deceas'd, or other credible person, shall, within eight days next after such Interment, bring an *Affidavit* in Writing under the Hands and Seals of two or more Credible Witnesses (and under the Hand of the Magistrate or Officer before whom the same was Sworn, for which nothing shall be paid) to the Minister or Parson, That the said person was not put in, wrapt, or wound up, or Buried in any Shirt, Shift, Sheet, or Shroud, made or mingled with Flax, Hemp, Silk, Hair, Gold or Silver, or other than what is made of Sheeps Wooll only, or in any Coffin lined or faced with any Cloth, Stuff, or any other thing whatsoever, made or mingled with Flax, Hemp, Silk, Hair, Gold or Silver,

or any other material but Sheeps Wool only.

And in case no such *Affidavit* shall be brought to the Parson or Minister where the said party was Buried, as aforesaid, within the said eight days, That such Parson or Minister shall forthwith give, or cause notice thereof to be given in Writing under his Hand, to the Church-wardens or Overseers of the Poor of such Parish.

And in case any Parson or Minister shall neglect to give notice to the Church-wardens or Overseers of the Poor, as aforesaid, or not give unto them a Note or Certificate under his Hand, Testifying that such an *Affidavit* and Certificate was not brought to him within the time limited by this Act, concerning the parties being Interred according to the Directions thereof; he so neglecting or offending, shall Forfeit for every such Offence, the Sum of Five Pounds of Lawful Money of *England*, to be Recovered by such person as shall Sue for the same, by Action of Debt, Bill, Plaint or Information, wherein no *Essoin*, Wager of Law, or Protection shall be Allowed, and wherein also the Prosecutor shall Recover his full Costs, so as the Suit be Commenced within Six Months after the Offence shall be Committed.

And it farther Enacted, That the Parson or Minister of every Parish shall keep a Register in a Book to be provided at the Charge of the Parish, and make a true Entry of all Burials within his Parish, and of all *Affidavits* brought

to him, as aforesaid, within the time limited, as aforesaid : And where no such *Affidavit* shall be brought to him within such time, that he enter a Memorial thereof in the said Registry, against the Name of the Party Interred, and of the time when he Notified the same to the Church-wardens or Overseers of the Poor.

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By an Additional Act for Burying in  
Woollen.

Anno 32. Car. II.

IT is Enacted, Thrt if no Justice of the Peace shall reside, or be to be found in any Parish where any Party shall be Interred ; the Parsons, Vicars and Curates, in every Parish or Chapel of Ease within the County where any Party shall be interred (except only the Parson, Vicar, and Curate of the Parish or Chapel of Ease where the Party is Interred, concerning whose Interment in Woollen *Affidavit* is to be made) are Authorized and Required to Administer the Oaths or *Affidavits* to be made of any persons being interred in Woollen, according to the Directions of the foresaid Act ; and to Attest the same under their Hands *gratis*.

EX-

*EXTRACT out of the Acts for Granting to His Majesty certain Duties upon Marriages, Births and Burials.*

Anno 6 & 7 Gul. III.

**I**T is Enacted, That for the better Levying and Collecting the Duties granted by the said Act, all persons in Holy Orders, Deans, Parsons, Deacons, Vicars, Curates, and their or any of their Substitutes, do within their respective Parishes, Precincts, and Places, take an exact and true Account, and keep a Register in Writing of all and every person or persons Married, Buried, Christened, or Born, in his or their respective Parishes or Precincts, or in such common Burying-places as their respective Parishioners are usually Buried in: To which Book or Register, the Collectors for the respective parishes and Places, and all other persons concerned, shall have free Access to view the same at all seasonable times, without any Fee or Reward; and if any such Parson or Minister shall refuse or neglect to keep a true Register thereof, as before is directed, such Parson or other Minister so offending, shall forfeit the Sum of One hundred pounds, to be recovered by such person as shall Sue for the same in any of His Majesties Courts of Record at *Westminster*, by any Action of Debt, Bill, Plaint, or Information, wherein no Essoin, Wager of Law, or Protection.



rection shall be allowed, and wherein the Prosecutor shall recover his full Costs; one Moiety of which Forfeiture, shall be to the Use of the King's Majesty, His Heirs and Successors, and the other Moiety to the persons who shall Inform and Sue for the same.

*In the same Statute, it is farther enacted,*

That no person shall be Married at any place pretending to be exempt from the Visitation of the Bishop of the Diocese, without a Licence first had and obtained, except the Banns shall be published and certified according to Law; And that every Parson, Vicar, and Curate, who shall Marry any persons contrary to the true Intent and Meaning hereof, shall Forfeit the Sum of One hundred pounds, to be recovered by Action of Debt, Bill, Plaint or Information in any of His Majesties Courts of Record; one Moiety whereof to the King, His Heirs and Successors, and the other Moiety to the Informer, who shall Sue for the same; and shall for the second Offence be suspended *ab Officio & Beneficio* for the space of three Years.

*For the Remedying of certain Abuses, wherein  
the foresaid Clause hath been eluded and  
made of none Effect ; by an Act*

Anno 7 & 8 Gul. III.

**I**T is farther Enacted, That every Parson, Vicar, or Curate, who shall Marry any persons in any Church or Chapel exempt or not exempt, or in any other place whatever, without Publication of the Banns of Matrimony between the respective persons according to Law, or without Licences for the said Marriages first had and obtained, shall for every such Offence, forfeit the Sum of One hundred pounds. And

That every Parson, Vicar or Curate, who shall substitute or employ, or knowingly and wittingly shall suffer and permit any other Minister to Marry any persons in any Church or Chapel to such Parson, Vicar, or Curate belonging or appertaining, without Publication of Banns or Licence of Marriage first had and obtained, shall for every such Offence forfeit the Sum of One hundred pounds. And

That every Sexton or Parish-Clerk, or other person acting as Sexton or Parish-Clerk, who shall knowingly and wittingly, aid, promote, and assist at such Marriages so celebrated without Banns or Licences, as aforesaid, shall forfeit the Sum of Five pounds, to be recovered with Costs of Suit, in manner as aforesaid. by  
any

any person who shall Inform or Sue for the same.

*And, for the preventing certain Abuses in Collecting the Duties upon Christnings, it is required by the same Act,*

That the Rector, Vicar, Curate, or Clerk of the Parish, or their Substitutes, during the continuance of this Act, do take an exact and true Account, and keep a distinct Register of all and every person or persons born in his or their respective Parishes or Precincts, and not Christned according to the Rites of the Church of England; for doing which, the Parents of such Child, or one of them, shall pay to every such Parson, Rector, Vicar, Curate, or Clerk of the Parish, the Sum of Six pence; and if any such Rector, Vicar, Curate, Parson, or Minister, shall refuse or neglect (upon notice given) to keep a true Register thereof, as before is directed, such Parson or other Minister so offending, shall forfeit the Sum of Forty shillings. And

That the Commissioners, or any two of them, shall and may, in their respective Counties, Cities and Places, require and command the Deans, Parsons, Deacons, Vicars, Curates, and their or any of their Substitutes, of their respective Parishes, Precincts, and Places, twice in every Year, or oftner, if they shall think fit, to produce and shew forth to the said Commissioners, or any two of them, and also to the Assessors, the Licences of all Persons Married, or Certificates of the Banns published,

lished, and the Registers of all Persons Buried, Born, or Christned, within the respective Parishes, Precincts, and Places aforesaid, on pain to forfeit for every Neglect or Refusal so to do, the Sum of Five pounds.

And whereas divers Persons are Buried in other Parishes than where they lived or resided, by reason whereof the Duties payable upon the Burial of such person or persons are not answered to His Majesty; It is farther Enacted, That the Deans, Parsons, Deacons, Vicars, Curates, and their respective Substitutes, shall within Ten days after any person or persons are by them Buried in their respective Parishes, Precincts, and Places, who are Inhabitants or resided in any other Parish or Place, give notice in Writing of the Day, and Place, and Name of such person or persons so by him or them Buried, as aforesaid; to the Collectors, or one of them, of the Parish, Precinct, or Place, where such person or persons last lived or inhabited, on pain to forfeit for every neglect herein, the Sum of Five pounds.

*For the preventing Frauds and Abuses, in the Charging, Collecting, and Paying the foresaid Duties; by an Act*

Anno 9 & 10 Gul. III.

**I**T is Enacted, That every Ecclesiastical or other Person required by the former Acts, or any of them, to keep a Register of Persons Buried, Christned, Born, or Married, shall in the same Registers respectively, according to the best of his Knowledge or Information, together with the Name of every person so Married, Buried, Christned, or Born, set down and express, or cause to be set down and expressed in Writing, the respective Degree, Condition, or Quality, according to which His Majesty's Duty ought to be paid for every such Burial, Birth or Marriage respectively; and in the Case of Burials, the Names of the Heirs, Executors, Administrators, Fathers, Mothers, Guardians, Church-wardens, Overseers, or others, who by the said Acts ought to pay for the same, and where they dwell respectively; and in case of Births, the Names of the Fathers, Mothers, or those that take on them the Guardianship or Care of such Children so Born, and where they live respectively; and in the case of Marriages, the places of Abode of the several Husbands; Upon pain that any Dean, Parson, Register, Deacon, Vicar, Curate, Substitute, or Ecclesiastical Person



Person whatsoever, having due Knowledge or Information, whereby such Addition may be made in his Register, and neglecting to insert the same, or wilfully or knowingly setting down or consenting to the setting down in his Register any matter of Falshood, as to the Degree, Quality, Condition, Person, or place of Abode, with intent that His Majesty may be defrauded of all or any part of the Duty payable for or upon any such Burial, Birth, or Marriage, shall for every such Offence forfeit the Sum of Twenty pounds. And

That the Commissioners having Power given them to warn any Parson, Vicar, Curate, Parish-Clerk, or others concerned, to bring in at their Meeting (as they shall see occasion) the Registers of the Marriages, Births, and Burials, or Copies thereof as shall be directed; If Default be made therein contrary to such warning given, then the said Commissioners or the major part of them present at such Meeting, shall and may Fine the Offenders for every such Default, not exceeding Five pounds, to be levied for the King's Use.

*A Table of the Archbishops and Bishops, and other Ordinaries and Dignitaries of the Church.*

*Province of Canterbury.*

*Diocese of Canterbury.*

**L**ORD Archbishop, Dr. Thomas Tenison,  
translated from *Lincoln*, Jan 16. 1694.

Dean of *Canterbury*, Geo. Stanhope, D. D.

Arch-deacon of *Canterbury*, John Battely,  
D. D.

Vicar-General, Sir John Cooke.

Commissary and Official, Thomas Bouchier,  
L. L. D.

*Diocese of London.*

Lord Bishop, Dr. Henry Compton, translated  
from *Oxford*, Dec. 18. 1675.

Dean of *St. Pauls*, William Sherlock, D. D.

Arch-deacon of *London*, William Stanly, D. D.

Arch-deacon of *Middlesex*, William Lancaster,  
D. D.

Arch-deacon of *Essex*, Charles Alston, D. D.

Arch-deacon of *Colchester*, Jonas Warley,  
M. A.

Arch-deacon of *St. Albans*, John Cole, M. A.

Chancellor, Henry Newton, L. L. D.

*Diocese*

*Diocese of Winchester.*

Lord Bishop, Dr. *Peter Mew*, translated from  
*Bath and Wells*, Nov. 22. 1684.

Dean of *Winchester*, *John Wickart*, D. D.  
Arch-deacon of *Winton*, -- *Bridock*, B. D.  
Arch-deacon of *Surry*, *Thomas Sayes*, D. D.  
Chancellor of the Diocese, *Peter Mew*, L. L. B.

*Diocese of Ely.*

Lord Bishop, Dr. *Simon Patrick*, translated  
from *Chichester*, July 2. 1691.

Dean of *Ely*, *John Lamb*, D. D.  
Arch-deacon of *Ely*, *Richard Bently*, D. D.  
Chancellor of the Diocese, Sir *John Cook*,

*Diocese of Lincoln.*

Lord Bishop, Dr. *William Wake*, consecra-  
ted Oct. 21. 1705.

Dean, *Richard Willis*, D. D.  
Arch-deacon of *Lincoln*, *John Cawley*, D. D.  
Arch-deacon of *Leicester*, *John Rogers*, A. M.  
Arch-deacon of *Huntingdon*, *White Kennet*,  
D. D.  
Arch-deacon of *Bucks*, *John Gery*, L. L. D.  
Arch-deacon of *Bedford*, *Tho. Frank*, A. M.  
Arch-deacon of *Stow*, *John Hutton*, A. M.  
Chancellor, *William Oldys*, L. L. D.

*Diocese*

*Diocese of Litchfield and Coventry.*

Lord Bishop, Dr. John Hough, translated from Oxford.

Arch-deacon of Coventry, and Dean of Litchfield, William Rinckes, D. D.

Arch-deacon of Derby, Tho. Goodwin, D.

Arch-deacon of Stafford, Nathaniel Ellison, M.

Arch-deacon of Salop, Griffith Vaughan, M.

Chancellors, Henry Raines, William Wal-  
ley, L. L. D.

*Diocese of Salisbury.*

Lord Bishop, Dr. Gilbert Burnet, consecrated Mar. 31. 1689.

Dean, John Younger, D. D.

Arch-deacon of Sarum, Joseph Kelsey, B. D.

Arch-deacon of Berks, Jonas Proast, A. M.

Arch-deacon of Wilts, Cornelius Yeats, A. B.

Chancellor, Edmund Spencer, A. M.

*Diocese of Bath and Wells.*

Lord Bishop, Dr. George Hooper, translated from St. Asaph 1704.

Dean of Wells, Dr. Graham.

Arch-deacon of Wells, --- Hill, A. M.

Arch-deacon of Taunton, Edward Waple, D.

Arch-

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Arch-deacon of *Bath*, *William Clement*, A.  
 Chancellor of the Diocese, *William Hug*  
 A. M.

*Diocese of Exeter.*

Lord Bishop, Sir *Jonathan Trelawney*, B.  
 D. D. translated from *Bristol* April 30. 1688  
 Dean of *Exeter*, *Lancelot Blackburn*, A. M.  
 Arch-deacon of *Exeter*,  
 Arch-deacon of *Cornwall*, *Edward Drew*, D.  
 Arch-deacon of *Totnes*, *Francis Atterbury*  
 D. D.

Arch-deacon of *Barnstaple*, *William Rea*  
 A. M.

Chancellor, *John Edisbury*, L. L. D.

*Diocese of Norwich.*

Lord Bishop, Dr. *John Moor*, consecrated  
 July 5. 1691.

Dean of *Norwich*, *Humphrey Prideaux*, D. D.  
 Arch-deacon of *Norwich*, *John Jeffery*, D. D.  
 Arch-deacon of *Norfolk*, *Charles Trimmell*, D. D.  
 Arch-deacon of *Sudbury*, *Nic. Claget*, A. M.  
 Arch-deacon of *Suffolk*, *Humphrey Prideaux*  
 D. D.

Chancellor, *Thomas Tanner*, A. M.

*Diocese of Worcester.*

Lord Bishop, Dr. *William Lloyd*, translated  
 from *Litchfield* and *Coventry*.

Dean of *Worcester*, Lord Bishop of *Oxford*.

Arch-deacon of *Worcester*, --- *Worth*, A. M.

Chan



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Chancellor of the Diocese, *John Price*,  
L. B.

*Diocese of Hereford.*

Lord Bishop, *Dr. Humphrey Humfreys*, trans-  
ferred from *Bangor*.

Dean of *Hereford*, *John Tyler*, D. D.

Arch-deacon of *Salop*, *Adam Oseley*, D. D.

Arch-deacon of *Hereford*, *Thomas Fox*, A. M.

Chancellor, *Charles Baldwin*, Esq;

*Diocese of Chichester.*

Lord Bishop, *Dr. John Williams*, consecra-  
ted Dec. 13. 1696.

Dean of *Chichester*, *William Haly*, D. D.

Arch-deacon of *Chichester*, *Josias Pleydell*,  
M.

Arch-deacon of *Lewes*, *Richard Bowchier*,  
D.

Chancellor

*Diocese of Rochester.*

Lord Bishop, *Dr. Thomas Sprat*, consecrated  
Nov. 2. 1684.

Dean, *Henry Ullock*, D. D.

Arch-deacon of *Rochester*, *Mr. Spratt*, A. M.

Chancellor, *Sir Charles Hedges*, Kt. L. L. D.

*Diocese of Oxford.*

Lord Bishop, *Dr. William Talbot*.

Dean, *Henry Aldrich*, D. D.

Arch-

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Arch-deacon of Oxford, *Humphrey Ho*  
D. D.

Chancellor, *Thomas Ayloff*, L. L. D.

*Diocese of Gloucester.*

Lord Bishop, Dr. *Edward Fowler*, consecrated July 5. 1691.

Dean, *William Jane*, D. D.

Arch-deacon of Gloucester, ----- *Parson*  
D. D.

Chancellor, *Robert Parsons*, L. L. D.

*Diocese of Peterborough.*

Lord Bishop, Dr. *Richard Cumberland*, consecrated July 5. 1691.

Dean, *Samuel Freeman*, D. D.

Arch-deacon of Peterborough, *Thomas Wood*  
*Ay*, D. D.

Chancellor, ---- *Reynolds*, A. M.

*Diocese of Bristol.*

Lord Bishop, Dr. *John Hall*, consecrated Aug. 30. 1691.

Dean of Bristol, *Geo. Royle*, D. D.

Arch-deacon of Dorset, *Robert Cooper*, A. M.

Chancellor, *Charles Sloper*, A. M.

*Diocese of St. Davids.*

Lord Bishop, Dr. *George Bull*, consecrated 1705.

Arch

Arch-deacon of Brecknock, Roger Griffiths,  
D. D.

Arch-deacon of St. David's, Arnold Bowen,  
A. M.

Arch-deacon of Caermarthen, Thomas Stainor,  
D. D.

Arch-deacon of Cardigan,  
Chancellor, Henry Falconbridge, L. L. D.

*Diocese of Landaff.*

Lord-Bishop, Dr. William Beaw, consecrated  
June 22. 1679,

Arch-deacon of Landaff, Bp in Commendam.  
Chancellor, Henry Jones, L. L. D.

*Diocese of Bangor.*

Lord Bishop, Dr. John Evans, consecrated  
1702.

Dean, John Jones, D. D.

Arch-deacon of Bangor, Bishop in Commendam.

Arch-deacon of Anglesey, Ibid.

Arch-deacon of Merioneth, Francis Lloyd,  
A. M.

Chancellor, Dr. Pennington.

*Diocese of St. Asaph.*

Lord Bishop, Dr. William Beveridge, con-  
secrated 1704.

Dean, Daniel Price, D. D.

Arch-deacon of St. Asaph, Bp in Commendam.

Chancellor, Dr. Robert Wynn.

*Diocese*

*Diocese of York.*

Lord Archbishop, Dr. *John Sharp*, consecrated July 5. 1691.

Dean of York, *Edward Finch*, D. D.

Arch-deacon of York, *Knightley Chetwood*, D. D.

Arch-deacon of East-riding, -- *Deering*, L. L. D.

Arch-deacon of Cleveland, *James Fall*, D. D.

Arch-deacon of Nottingham, *William Pearson*, A. M.

Vicar General, Dr. *Watkinson*.

*Diocese of Durham.*

Lord Bishop, *Nathaniel Lord Crew*, translated from Oxford, Octob. 22. 1674.

Dean of Durham. *Ralph Montague*, D. D.

Arch-deacon of Durham, the Honourable Mr. *Booth*.

Arch-deacon of Northumberland.

Chancellor, Dr. *Brookbank*.

*Diocese of Carlisle.*

Lord Bishop, Dr. *William Nicholson*, consecrated 1702.

Dean, Dr. *Francis Atterbury*.

Arch-deacon of Carlisle, --- *Fleming*, A. M.

Chancellor, *Thomas Tully*, B. D.

*Diocese*

*Diocese of Chester.*

Lord Bishop, Dr. *Nicolas Stratford*, consecrated Dec. 15. 1689.

Arch-deacon of *Chester*, *Edmund Entwistle*, D. D.

Arch-deacon of *Richmond*.

Dean of *Chester*, Dr. *Fog*.

Chancellor, Dr. *Wainwright*.

*Diocese of Man.*

Bishop of *Man*.

Arch-bishopricks	2
Bishopricks beside that of <i>Man</i>	23
Arch-deaconries	61
Cathedral Deanaries	23

*Westminster*, *Windsor*, and *Wolverhampton*, are Collegiate Churches, not Cathedrals; and there are no Deanaries belonging to *St. David's* and *Landaff*.

Counties in which if any Living become vacant in the Patronage of a Papist, the University of *Oxford* shall present, viz.

*Oxford*, *Kent*, *Middlesex*, *Sussex*, *Surry*, *Hampshire*, *Berkshire*, *Buckinghamshire*, *Glostershire*, *Worcestershire*, *Staffordshire*, *Warwickshire*, *Wiltshire*, *Somersetshire*, *Devonshire*, *Cornwall*, *Dorsetshire*, *Herefordshire*, *Northamptonshire*, *Pembrokeshire*, *Caermarthenshire*, *Breckneckshire*,  
O Monmouth-



Monmouthshire, Montgomeryshire, City of London.

Counties in which if any Living fall vacant in the Patronage of a Papist, the University of Cambridge shall present, viz.

Hertfordshire, Bedfordshire, Cambridgeshire, Huntingdonshire, Suffolk, Norfolk, Lincolnshire, Rutlandshire, Leicestershire, Derbyshire, Nottinghamshire, Shropshire, Cheshire, Lancashire, Yorkshire, Durham, Northumberland, Cumberland, Westmorland, Radnorshire, Denbighshire, Flintshire, Carnarvanshire, Anglesey, Merionethshire, Glamorganshire. Stat. 3 Jac. c. 5.

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FINIS.

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A D.

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# ADDENDA.

Page 19. after Line 15. add :

**T**HE Reason I have to say that these Private Chapels were not consecrated, is, that the Const. of *Stratford*, Arch-bishop above cited, beginning *Quam sit*, expressly forbids "Celebrating the Mass in unconsecrated Places, excepting the Places of this sort (Oratories and Chapels, says *Lyndwood*) belonging to Noblemen, who live at a distance from the Church, or are infirm, to whom a License is allow'd, and excepting the Oratories of the Dignify'd Clergy, built long since, and Chapels Royal. Every one of these Exceptions had been needless, if these Oratories or Chapels had commonly been consecrated. *Lyndwood*, in his Gloss on the Word Chapels, will scarce allow that that which is consecrated should be called by that Name; but puts it off in this manner: "Sometimes 'tis called a Chapel, tho it be dedicated to distinguish it from a greater Church, *Gloss ib.*

But I suppose the Chapels of all Religious Houses are to be excepted: As likewise now with us Chapels belonging to Colleges, &c.

Page 75. at the top, add :

In a large Sence all Benefices with Cure of Souls, are by all called Cures ; and the Incumbents of these Benefices are often called Curates, by the Canons and Canonists, and in our Liturgy : But if the Incumbent do not officiate in Person, by reason of Absence, or Inability ; then the Clergy-man, who represents the Incumbent, and officiates in his stead, is called the *Curate* : And 'tis in this Sence the Word is commonly taken, in vulgar Discourse.

Page 85. Line 20. add :

Nay, I am assur'd, that no Archiepiscopal Dispensation of any sort is now granted, but with this Proviso.

Page 90. Line 11. add :

Nay, by the Canon-Law, whatever Clerk endeavour'd to possess himself of a Living, which had an Incumbent *de Facto*, tho not *de Jure*, before this *de Facto* Incumbent were Solemnly and Canonically removed by the Ecclesiastical Judge, he incurred the *Excommunicatio major*. See Const. Archiep. Stratf. *Esuri-*  
*entis*.

*Ibid.* Line 14. after *Second*, add :

Thss I take to be one Instance of a thousand of the Common Law, or Custom of *England* prevailing against the Canon-Law ; for by this last 'twas otherwise, as is just now said.

Page 104. Line 1. after *Practice*, add :

And that the Old Canon-Law, so far forth as it ever was received, and does not contradict the Queen's Prerogative, or any Law or Custom of *England*, is still in force. See *Stillington's Eccl. Case*, from pag. 348. to pag. 376.

Page 124. *ad calcem*, add :

Dr. *Chamberlaine*, in his present State of *England*, 1694. pag. 363. asserts, That "the Glebe, and Spiritual Revenues of the Clergy, are by an unpublish'd Statute, 8 Hen. 4. still in Force, expressly exempted from Arming, or Mustering Men, or Horses, for the War. If the Doctor could have proved that this Act was not set aside by the Statutes in the Reign of *Charles* the Second, concerning the Militia, he had done the Clergy a Substantial Service. As the Clergy of old Time were free from all secular Burdens, so undoubtedly from this too, till the last Age. And yet we know that in Case of any common

Danger, as upon Apprehension of an Invasion, the Bishops taxed their Clergy with Arms, in proportion to their Benefices. See *Sommer's Lives of Arch-bishops of Canterbury.*

Page 127. Line 26. after *Leave* add :

Without which the Bishop's Council have not thought it safe for them to censure Books, and Persons.

Page 129. after Line 2. add :

Whether the Lower House have any Precedent, whereby they can desire a *Free Conference* with the Upper ? And whether the Lower House be not obliged to put their Reasons for dissenting from the Upper House *into Writing*, if the Bishops require them so to do ?

Page 159. Line 19. add :

And indeed by the Const. of Arch-bishop *Peckham Altissimus*, every Curate may License his Parishioner to Communicate elsewhere.

Page 201. Line 6. add :

And yet I dare not say, but 'tis possible the *Easter-Offering* might in some Places at first be paid on this Consideration, that this was the Time when all were to receive the Sacrament : For tho the Canon-Law condemns it as

gross



gross Simony to take, or pay Money for Sacraments; yet it allows that if there be a Custom of paying *so much* after having receiv'd the Sacraments, the Custom is good, and the Money to be recover'd in the Spiritual Courts. The Words of *Acton* are observable: *If the Priest demand Money for performing the Office, he will be cast: But if he demand it on Consideration, that so much used to be paid on the performing such an Office, he will carry his Cause.* See *Orbo. Const. Sacramenta & Gloss.* and Archbishop *Langton's Const. Firmiter*; with *Lyndwood's Gloss* to the same Effect. And so, they say, the Priest must not demand Money for reading the Office of Burial, or breaking up the Ground; for either of these are with the Canonists direct Simony: But on Account that so much has of Custom been paid, and therefore they are very severe on those Clergy-men, who refuse to perform any Religious Office, without having the Money first paid: This, on all Occasions, they declare to be Simony.

## E R R A T A:

**PAGE** 9. Line 23. for *Cleves* r. *Clove* *sko*.  
 p. 10. l. penult. f. *Terms* r. *Forms*. p. 26.  
 l. 18. f. *strictly* r. *stiffly*. p. 41. l. 32. f. of r. and.  
 p. 43. f. *Sazar*. r. *Dazar*. p. 42. l. 24. before  
*Clergy* insert *Beneficed*. p. 60. l. 27, 28. r. or f.  
 and, and and f. or. p. 62. dele *ORDINARIES*.  
 p. 63. l. dele *and or*, and r. *Bishop's Servants*.  
 p. 70. l. penult, f. *Bishop* r. *Queen*. p. 99. l. pe-  
 nult, f. *six* r. *sixty*. p. 112. l. 14. dele *taken*  
*from the Pope and*. p. 119. l. 4. for *and* r. or  
 p. 128. l. 4. f. *use* r. *ure*. l. 17. f. *a* r. *no*  
 p. 141. l. 7. for *cess* r. *less*. 153. l. 10. f. *Edw*. 6.  
 r. 1 *Eliz*. l. 15. after *so* make a *dele* the rest  
 of the Paragraph. p. 159. l. 17. after *leave* in-  
 sert *to the Parties*. p. 157. l. 12. after 39. in-  
 sert, *and if Cousin Germans are not*. p. 166. l. 31.  
 after *and* insert *not*. p. 179. l. 28. f. *into* r. *in*.  
 p. 180. l. 24. after *Chap*. insert 4. p. 187. l. 6.  
 f. *Provinces* r. *Province*. p. 205. l. 27. f. *Eccle-*  
*sie* r. *Ecclesia*.



A N

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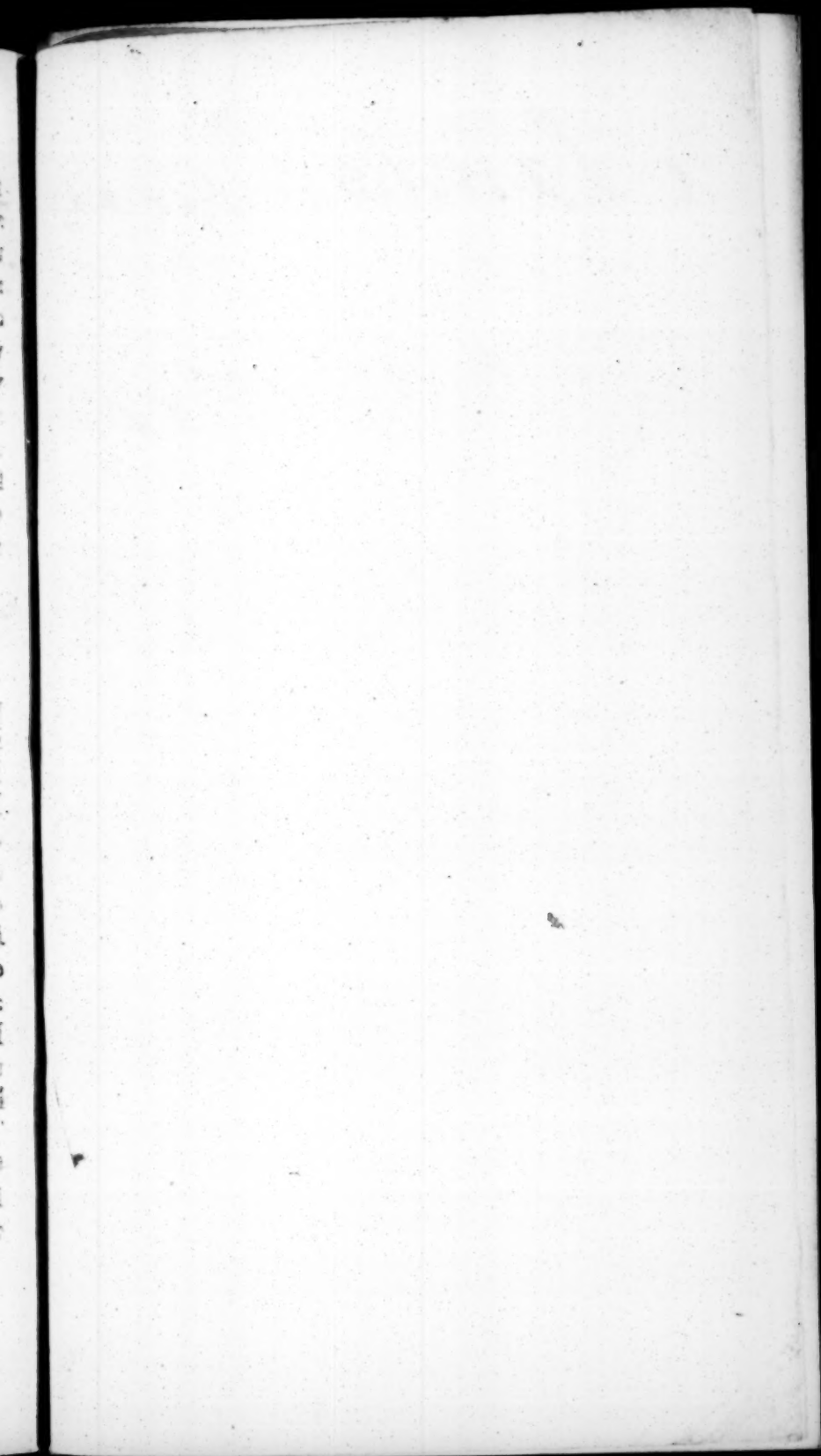
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